

# IOWA ADMINISTRATIVE BULLETIN

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Pages 1285 to 1332

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## PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

**PLEASE NOTE:** *Italics* indicate new material added to existing rules; ~~strike through letters~~ indicate deleted material.

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**CITATION of Administrative Rules**

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1(249A)	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

## Schedule for Rule Making 2005

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 31 '04	Jan. 19 '05	Feb. 8 '05	Feb. 23 '05	Feb. 25 '05	Mar. 16 '05	Apr. 20 '05	July 18 '05
Jan. 14 '05	Feb. 2	Feb. 22	Mar. 9	Mar. 11	Mar. 30	May 4	Aug. 1
Jan. 28	Feb. 16	Mar. 8	Mar. 23	Mar. 25	Apr. 13	May 18	Aug. 15
Feb. 11	Mar. 2	Mar. 22	Apr. 6	Apr. 8	Apr. 27	June 1	Aug. 29
Feb. 25	Mar. 16	Apr. 5	Apr. 20	Apr. 22	May 11	June 15	Sept. 12
Mar. 11	Mar. 30	Apr. 19	May 4	May 6	May 25	June 29	Sept. 26
Mar. 25	Apr. 13	May 3	May 18	***May 18***	June 8	July 13	Oct. 10
Apr. 8	Apr. 27	May 17	June 1	June 3	June 22	July 27	Oct. 24
Apr. 22	May 11	May 31	June 15	June 17	July 6	Aug. 10	Nov. 7
May 6	May 25	June 14	June 29	***June 29***	July 20	Aug. 24	Nov. 21
***May 18***	June 8	June 28	July 13	July 15	Aug. 3	Sept. 7	Dec. 5
June 3	June 22	July 12	July 27	July 29	Aug. 17	Sept. 21	Dec. 19
June 17	July 6	July 26	Aug. 10	Aug. 12	Aug. 31	Oct. 5	Jan. 2 '06
***June 29***	July 20	Aug. 9	Aug. 24	***Aug. 24***	Sept. 14	Oct. 19	Jan. 16 '06
July 15	Aug. 3	Aug. 23	Sept. 7	Sept. 9	Sept. 28	Nov. 2	Jan. 30 '06
July 29	Aug. 17	Sept. 6	Sept. 21	Sept. 23	Oct. 12	Nov. 16	Feb. 13 '06
Aug. 12	Aug. 31	Sept. 20	Oct. 5	Oct. 7	Oct. 26	Nov. 30	Feb. 27 '06
***Aug. 24***	Sept. 14	Oct. 4	Oct. 19	Oct. 21	Nov. 9	Dec. 14	Mar. 13 '06
Sept. 9	Sept. 28	Oct. 18	Nov. 2	Nov. 4	Nov. 23	Dec. 28	Mar. 27 '06
Sept. 23	Oct. 12	Nov. 1	Nov. 16	***Nov. 16***	Dec. 7	Jan. 11 '06	Apr. 10 '06
Oct. 7	Oct. 26	Nov. 15	Nov. 30	Dec. 2	Dec. 21	Jan. 25 '06	Apr. 24 '06
Oct. 21	Nov. 9	Nov. 29	Dec. 14	***Dec. 14***	Jan. 4 '06	Feb. 8 '06	May 8 '06
Nov. 4	Nov. 23	Dec. 13	Dec. 28	Dec. 30	Jan. 18 '06	Feb. 22 '06	May 22 '06
***Nov. 16***	Dec. 7	Dec. 27	Jan. 11 '06	Jan. 13 '06	Feb. 1 '06	Mar. 8 '06	June 5 '06
Dec. 2	Dec. 21	Jan. 10 '06	Jan. 25 '06	Jan. 27 '06	Feb. 15 '06	Mar. 22 '06	June 19 '06
***Dec. 14***	Jan. 4 '06	Jan. 24 '06	Feb. 8 '06	Feb. 10 '06	Mar. 1 '06	Apr. 5 '06	July 3 '06
Dec. 30	Jan. 18 '06	Feb. 7 '06	Feb. 22 '06	Feb. 24 '06	Mar. 15 '06	Apr. 19 '06	July 17 '06

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
22	Friday, April 8, 2005	April 27, 2005
23	Friday, April 22, 2005	May 11, 2005
24	Friday, May 6, 2005	May 25, 2005

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

\*\*\*Note change of filing deadline\*\*\*

## PUBLICATION PROCEDURES

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The Administrative Rules Review Committee will hold a special meeting on Friday, April 1, 2005, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

#### **AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

Animal and livestock importation, ch 65, Notice **ARC 4075B** ..... 3/30/05

#### **EDUCATIONAL EXAMINERS BOARD[282]**

EDUCATION DEPARTMENT[281]"umbrella"

Teacher intern licensure, 14.129(1), 14.129(3)"d" and "e," 14.129(4)"a," "b" and "e," 14.129(5),  
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#### **ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]**

Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]"umbrella"

Reinstatement of lapsed licenses—fees, 2.1, Filed **ARC 4078B** ..... 3/30/05

Professional development, 7.2, 7.3, 7.4(3), 7.4(4), Filed **ARC 4077B** ..... 3/30/05

#### **ENVIRONMENTAL PROTECTION COMMISSION[567]**

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

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Prohibition on receipt of an honorarium by executive branch official or employee,

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#### **HUMAN SERVICES DEPARTMENT[441]**

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NATURAL RESOURCES DEPARTMENT[561]"umbrella"

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PUBLIC HEALTH DEPARTMENT[641]"umbrella"

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Interpreters for the hearing impaired, adopt ch 361,	<u>Notice</u> <b>ARC 4040B</b>	3/16/05

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Swimming pools and spas, ch 15,	<u>Filed</u> <b>ARC 4082B</b>	3/30/05
Radiation, amendments to chs 38 to 42, 45, 46,	<u>Filed</u> <b>ARC 4079B</b>	3/30/05
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**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]"umbrella"

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Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]"umbrella"

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AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]"umbrella"

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COMMERCE DEPARTMENT[181]"umbrella"

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Quality of service reporting by eligible telecommunications carriers, 39.3(1)"b,"

39.5, Notice **ARC 4064B** ..... 3/16/05**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

Regular statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

**EDITOR'S NOTE: Terms ending April 30, 2007.**

Senator Jeff Angelo  
808 West Jefferson  
Creston, Iowa 50801

Senator Michael Connolly  
3458 Daniels Street  
Dubuque, Iowa 52002

Senator John P. Kibbie  
P.O. Box 190  
Emmetsburg, Iowa 50536

Senator Mary Lundby  
P.O. Box 648  
Marion, Iowa 52302-0648

Senator Paul McKinley  
21884 483rd Lane  
Chariton, Iowa 50049

Joseph A. Royce  
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Capitol, Room 116A  
Des Moines, Iowa 50319  
Telephone (515)281-3084  
Fax (515)281-5995

Representative Danny Carroll  
244 400th Avenue  
Grinnell, Iowa 50112

Representative George Eichhorn  
P.O. Box 140  
Stratford, Iowa 50249

Representative Marcella R. Frevert  
P.O. Box 324  
Emmetsburg, Iowa 50536

Representative David Heaton  
510 East Washington  
Mt. Pleasant, Iowa 52641

Representative Geri Huser  
213 Seventh Street NW  
Altoona, Iowa 50009

Gary Dickey Jr.  
**Administrative Rules Coordinator**  
Governor's Ex Officio Representative  
Capitol, Room 11  
Des Moines, Iowa 50319



AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
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**ELDER AFFAIRS DEPARTMENT[321]**

Adult day services—medication administration and storage, 24.30(2) IAB 3/16/05 <b>ARC 4055B</b> (ICN Network)	Department of Public Safety Wallace State Office Bldg. Des Moines, Iowa	April 7, 2005 1 p.m.
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Iowa Western Community College 2700 College Rd. Council Bluffs, Iowa	April 7, 2005 1 p.m.
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Iowa City Community School 509 S. Dubuque St. Iowa City, Iowa	April 7, 2005 1 p.m.
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Bldg. 4, Indian Hills Comm. College 651 Indian Hills Dr. Ottumwa, Iowa	April 7, 2005 1 p.m.
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Spencer High School 800 Third St. Spencer, Iowa	April 7, 2005 1 p.m.
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Schindler 130A, Univ. of Northern Iowa Hudson Rd. and 23rd St. Cedar Falls, Iowa	April 7, 2005 1 p.m.
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Assisted living—medication administration and storage, 25.29(2) IAB 3/16/05 <b>ARC 4054B</b> (ICN Network)	Department of Public Safety Wallace State Office Bldg. Des Moines, Iowa	April 7, 2005 1 p.m.
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Iowa Western Community College 2700 College Rd. Council Bluffs, Iowa	April 7, 2005 1 p.m.
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Iowa City Community School 509 S. Dubuque St. Iowa City, Iowa	April 7, 2005 1 p.m.
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Bldg. 4, Indian Hills Comm. College 651 Indian Hills Dr. Ottumwa, Iowa	April 7, 2005 1 p.m.
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Spencer High School 800 Third St. Spencer, Iowa	April 7, 2005 1 p.m.
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Schindler 130A, Univ. of Northern Iowa Hudson Rd. and 23rd St. Cedar Falls, Iowa	April 7, 2005 1 p.m.
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**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Air quality, 20.2, 21.2(3), amendments to ch 22, 23.1, 25.1(9) IAB 3/16/05 <b>ARC 4059B</b>	Conference Rooms Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	April 19, 2005 1 p.m.
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**ENVIRONMENTAL PROTECTION COMMISSION[567] (Cont'd)**

Solid waste comprehensive planning requirements, 101.1 to 101.13 IAB 3/16/05 <b>ARC 4062B</b> (ICN Network)	Second Floor Grimes State Office Bldg. Des Moines, Iowa	April 6, 2005 9:45 a.m. to 12:15 p.m.
	Public Library 507 Poplar Atlantic, Iowa	April 6, 2005 9:45 a.m. to 12:15 p.m.
	Room 210 Maquoketa Valley High School 107 South St. Delhi, Iowa	April 6, 2005 9:45 a.m. to 12:15 p.m.
	Room 106, Activity Center NIACC 500 College Dr. Mason City, Iowa	April 6, 2005 9:45 a.m. to 12:15 p.m.
	Fiber Optic Room 118 Iowa Lakes Community College 1900 N. Grand Ave. Spencer, Iowa	April 6, 2005 9:45 a.m. to 12:15 p.m.
	National Guard Armory 501 Highway 1 South Washington, Iowa	April 6, 2005 9:45 a.m. to 12:15 p.m.

**IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]**

Contribution rates for sheriffs and deputy sheriffs, 4.6 IAB 3/30/05 <b>ARC 4074B</b>	7401 Register Dr. Des Moines, Iowa	April 19, 2005 9 a.m.
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**NATURAL RESOURCE COMMISSION[571]**

Removal of portable blinds from game management areas, 51.5(2) IAB 3/30/05 <b>ARC 4084B</b> (ICN Network)	Contact (515)281-5918 or visit the department's Web site at <a href="http://www.iowadnr.com">www.iowadnr.com</a> for list of 12 ICN hearing locations.	April 19, 2005 7 p.m.
Season dates for waterfowl and coot hunting, 91.1, 91.3, 91.4(2) IAB 3/30/05 <b>ARC 4091B</b> (ICN Network)	Contact (515)281-5918 or visit the department's Web site at <a href="http://www.iowadnr.com">www.iowadnr.com</a> for list of 12 ICN hearing locations.	April 19, 2005 7 p.m.
Tagging in bow and late muzzleloader seasons, 94.4 IAB 3/30/05 <b>ARC 4086B</b> (ICN Network)	Contact (515)281-5918 or visit the department's Web site at <a href="http://www.iowadnr.com">www.iowadnr.com</a> for list of 12 ICN hearing locations.	April 19, 2005 7 p.m.
Wild turkey spring hunting, ch 98 IAB 3/30/05 <b>ARC 4090B</b> (ICN Network)	Contact (515)281-5918 or visit the department's Web site at <a href="http://www.iowadnr.com">www.iowadnr.com</a> for list of 12 ICN hearing locations.	April 19, 2005 7 p.m.
Wild turkey fall hunting by residents, 99.2, 99.4(9), 99.5(1), 99.8(2), 99.10 IAB 3/30/05 <b>ARC 4087B</b> (ICN Network)	Contact (515)281-5918 or visit the department's Web site at <a href="http://www.iowadnr.com">www.iowadnr.com</a> for list of 12 ICN hearing locations.	April 19, 2005 7 p.m.

**NATURAL RESOURCE COMMISSION[571] (Cont'd)**

Deer hunting by residents, 106.1, 106.2, 106.5 to 106.8 IAB 3/30/05 <b>ARC 4088B</b> (ICN Network)	Contact (515)281-5918 or visit the department's Web site at <a href="http://www.iowadnr.com">www.iowadnr.com</a> for list of 12 ICN hearing locations.	April 19, 2005 7 p.m.
Muskrat season; continuous closed season for bobcat and gray (timber) wolf, 108.1(2), 108.6 IAB 3/30/05 <b>ARC 4089B</b> (ICN Network)	Contact (515)281-5918 or visit the department's Web site at <a href="http://www.iowadnr.com">www.iowadnr.com</a> for list of 12 ICN hearing locations.	April 19, 2005 7 p.m.

**PROFESSIONAL LICENSURE DIVISION[645]**

Dietitians, amendments to chs 81, 82, 84 IAB 3/30/05 <b>ARC 4072B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	April 19, 2005 10 to 11 a.m.
Dietitians—discipline, 83.2(31) IAB 3/30/05 <b>ARC 4073B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	April 19, 2005 10 to 11 a.m.
Respiratory care practitioners, amendments to chs 261, 262, 264 IAB 3/16/05 <b>ARC 4037B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	April 18, 2005 9 to 10 a.m.
Respiratory care practitioners— discipline, 263.2(30) IAB 3/16/05 <b>ARC 4038B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	April 18, 2005 9 to 10 a.m.
Licensure of interpreter for the hearing impaired practitioners, ch 361 IAB 3/16/05 <b>ARC 4040B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	April 5, 2005 9 to 10 a.m.

**PUBLIC SAFETY DEPARTMENT[661]**

Explosive materials, 5.850 IAB 3/16/05 <b>ARC 4057B</b>	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	April 8, 2005 9:30 a.m.
Closed circuit surveillance systems in gaming establishments, rescind ch 23; adopt ch 141 IAB 3/16/05 <b>ARC 4066B</b>	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	April 8, 2005 10 a.m.
Regulatory analysis, Minimum training standards for fire fighters, 54.100 to 54.104 IAB 3/16/05 (See <b>ARC 3482B</b> , IAB 7/7/04)	Fire Service Training Bureau 3100 Fire Service Rd. Ames, Iowa	April 7, 2005 10 a.m.

**REAL ESTATE COMMISSION[193E]**

Enforcement proceedings against unlicensed persons, ch 21 IAB 3/16/05 <b>ARC 4052B</b>	Second Floor Professional Licensing Conference Room 1920 SE Hulsizer Ankeny, Iowa	April 5, 2005 10 a.m.
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**TRANSPORTATION DEPARTMENT[761]**

First aid and medical treatment for railroad employees, 810.4 IAB 3/16/05 <b>ARC 4053B</b>	First Floor South Conference Room Administration Bldg. 800 Lincoln Way Ames, Iowa	April 7, 2005 10 a.m. (If requested)
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**UTILITIES DIVISION[199]**

Revised procedural rules, 1.8(4); chs 7, 26; 32.9(4) IAB 2/16/05 <b>ARC 3990B</b>	Hearing Room 350 Maple St. Des Moines, Iowa	April 26, 2005 10 a.m.
Quality of service reporting by eligible telecommunications carriers, 39.3(1), 39.5 IAB 3/16/05 <b>ARC 4064B</b>	Hearing Room 350 Maple St. Des Moines, Iowa	May 11, 2005 9 a.m.

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]  
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]  
    Agricultural Development Authority[25]  
    Soil Conservation Division[27]  
ATTORNEY GENERAL[61]  
AUDITOR OF STATE[81]  
BEEF INDUSTRY COUNCIL, IOWA[101]  
BLIND, DEPARTMENT FOR THE[111]  
CAPITAL INVESTMENT BOARD, IOWA[123]  
CITIZENS’ AIDE[141]  
CIVIL RIGHTS COMMISSION[161]  
COMMERCE DEPARTMENT[181]  
    Alcoholic Beverages Division[185]  
    Banking Division[187]  
    Credit Union Division[189]  
    Insurance Division[191]  
    Professional Licensing and Regulation Division[193]  
        Accountancy Examining Board[193A]  
        Architectural Examining Board[193B]  
        Engineering and Land Surveying Examining Board[193C]  
        Landscape Architectural Examining Board[193D]  
        Real Estate Commission[193E]  
        Real Estate Appraiser Examining Board[193F]  
    Savings and Loan Division[197]  
    Utilities Division[199]  
CORRECTIONS DEPARTMENT[201]  
    Parole Board[205]  
CULTURAL AFFAIRS DEPARTMENT[221]  
    Arts Division[222]  
    Historical Division[223]  
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]  
    City Development Board[263]  
    Grow Iowa Values Board[264]  
    Iowa Finance Authority[265]  
EDUCATION DEPARTMENT[281]  
    Educational Examiners Board[282]  
    College Student Aid Commission[283]  
    Higher Education Loan Authority[284]  
    Iowa Advance Funding Authority[285]  
    Libraries and Information Services Division[286]  
    Public Broadcasting Division[288]  
    School Budget Review Committee[289]  
EGG COUNCIL, IOWA[301]  
ELDER AFFAIRS DEPARTMENT[321]  
EMPOWERMENT BOARD, IOWA[349]  
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]  
EXECUTIVE COUNCIL[361]  
FAIR BOARD[371]  
GENERAL SERVICES DEPARTMENT[401]  
HUMAN INVESTMENT COUNCIL[417]  
HUMAN RIGHTS DEPARTMENT[421]  
    Community Action Agencies Division[427]  
    Criminal and Juvenile Justice Planning Division[428]  
    Deaf Services Division[429]  
    Persons With Disabilities Division[431]  
    Latino Affairs Division[433]  
    Status of African-Americans, Division on the[434]  
    Status of Women Division[435]

HUMAN SERVICES DEPARTMENT[441]  
INFORMATION TECHNOLOGY DEPARTMENT[471]  
INSPECTIONS AND APPEALS DEPARTMENT[481]  
    Employment Appeal Board[486]  
    Foster Care Review Board[489]  
    Racing and Gaming Commission[491]  
    State Public Defender[493]  
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]  
LAW ENFORCEMENT ACADEMY[501]  
LIVESTOCK HEALTH ADVISORY COUNCIL[521]  
LOTTERY AUTHORITY, IOWA[531]  
MANAGEMENT DEPARTMENT[541]  
    Appeal Board, State[543]  
    City Finance Committee[545]  
    County Finance Committee[547]  
NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]  
VOLUNTEER SERVICE, IOWA COMMISSION ON[555]  
NATURAL RESOURCES DEPARTMENT[561]  
    Energy and Geological Resources Division[565]  
    Environmental Protection Commission[567]  
    Natural Resource Commission[571]  
    Preserves, State Advisory Board for[575]  
PERSONNEL DEPARTMENT[581]  
PETROLEUM UNDERGROUND STORAGE TANK FUND  
    BOARD, IOWA COMPREHENSIVE[591]  
PREVENTION OF DISABILITIES POLICY COUNCIL[597]  
PUBLIC DEFENSE DEPARTMENT[601]  
    Homeland Security and Emergency Management Division[605]  
    Military Division[611]  
PUBLIC EMPLOYMENT RELATIONS BOARD[621]  
PUBLIC HEALTH DEPARTMENT[641]  
    Substance Abuse Commission[643]  
    Professional Licensure Division[645]  
    Dental Examiners Board[650]  
    Medical Examiners Board[653]  
    Nursing Board[655]  
    Pharmacy Examiners Board[657]  
PUBLIC SAFETY DEPARTMENT[661]  
RECORDS COMMISSION[671]  
REGENTS BOARD[681]  
    Archaeologist[685]  
REVENUE DEPARTMENT[701]  
SECRETARY OF STATE[721]  
SEED CAPITAL CORPORATION, IOWA[727]  
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]  
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]  
TRANSPORTATION DEPARTMENT[761]  
    Railway Finance Authority[765]  
TREASURER OF STATE[781]  
TURKEY MARKETING COUNCIL, IOWA[787]  
UNIFORM STATE LAWS COMMISSION[791]  
VETERANS AFFAIRS COMMISSION[801]  
VETERINARY MEDICINE BOARD[811]  
VOTER REGISTRATION COMMISSION[821]  
WORKFORCE DEVELOPMENT DEPARTMENT[871]  
    Labor Services Division[875]  
    Workers' Compensation Division[876]  
    Workforce Development Board and  
        Workforce Development Center Administration Division[877]

**ARC 4075B****AGRICULTURE AND LAND  
STEWARDSHIP DEPARTMENT[21]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 163.1, the Department of Agriculture and Land Stewardship gives Notice of Intended Action to rescind Chapter 65, “Livestock Importation,” and to adopt new Chapter 65, “Animal and Livestock Importation,” Iowa Administrative Code.

These proposed rules are intended to update the importation requirements for animals imported into Iowa. The rules regarding animal importation are reorganized and consolidated in new Chapter 65. The following are significant changes made in the importation requirements:

1. Recognizing the interstate movement of swine within a swine production system. The interstate movement is allowed by the USDA, and this change will bring the Department’s rules in line with federal requirements.
2. Eliminating the prior permit requirement for all feeder swine and feeder heifers. Pre-entry permits are restricted to Cervidae and to livestock and poultry originating from states with less than a disease-free status for selected diseases.
3. Providing rules for animals entering from states which have had a diagnosed case of Avian Influenza (H5 and H7), exotic Newcastle disease, or vesicular stomatitis. These situations were previously handled through Executive Orders.
4. Prohibiting the importation of feral swine and select prairie dogs and African rodents.
5. Recognizing electronic Certificates of Veterinary Inspection and animal identification approved by the National Animal Identification System.

Any interested person may make written suggestions or comments on the proposed amendment prior to 4:30 p.m. on May 1, 2005. Such written material should be directed to Dr. John Schiltz, State Veterinarian, Animal Industry Bureau, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)281-4282 or by E-mail to [John.Schiltz@idals.state.ia.us](mailto:John.Schiltz@idals.state.ia.us).

This amendment is intended to implement Iowa Code chapter 163.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Rescind 21—Chapter 65 and insert in lieu thereof the following new chapter:

**CHAPTER 65****ANIMAL AND LIVESTOCK IMPORTATION****21—65.1(163) Definitions.**

“Accredited veterinarian” means a veterinarian licensed in the state of origin and approved by the United States Department of Agriculture (USDA), Animal and Plant Health

Inspection Service (APHIS), to perform certain functions of federal and cooperative state-federal programs in accordance with the provision of Title 9 Code of Federal Regulations (CFR) §160 through §162.

“Avian influenza- or exotic Newcastle disease-affected state” or “AI- or END-affected state” means any state in which avian influenza subtype H5 or H7 or END virus has been diagnosed in poultry within the last 90 days prior to importation.

“Domestic fowl” means any member of the class Aves that is propagated or maintained under control of a person for commercial, exhibition, or breeding purposes or as a pet.

“Feral swine” means swine that are free-roaming.

“Official individual identification” means a unique individual identification that is secure and traceable including, but not limited to, a USDA-approved identification ear tag that conforms to the alphanumeric national uniform ear tagging system; a USDA-approved premises tattoo; a registered purebred tattoo; or identification that conforms to the National Animal Identification System. An owner’s private brand or tattoo, even though permanent and registered in the state of origin, is not acceptable official individual identification of an animal for the purpose of entry into Iowa.

“Poultry” means chickens, turkeys, domestic waterfowl, ratites, and domestic game birds, except doves and pigeons.

“Pre-entry permit” means a written or verbal authorization provided by the department prior to the importation of animals into Iowa. If required, a pre-entry permit number must be obtained and listed on the Certificate of Veterinary Inspection accompanying the animals.

“Recognized slaughter establishment” means a slaughtering establishment operating under the provisions of either the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or an equivalent state meat inspection program.

“Specifically approved auction market” means a stockyard, livestock market, buying station, concentration point, or any other premises under state or federal veterinary supervision where livestock are assembled for sale or sale purposes and which has been approved by USDA as provided in 9 CFR §71.20.

“Vesicular stomatitis-affected state” or “VS-affected state” means any state in which vesicular stomatitis (VS) virus serotype New Jersey or Indiana has been diagnosed within the last 60 days prior to animal importation.

**21—65.2(163) Pre-entry permits.**

**65.2(1)** Requests for permits should be directed to the Animal Industry Bureau, Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319, or may be made by telephoning the bureau at (515)281-5547 during normal business hours (7:30 a.m. to 4:30 p.m.).

**65.2(2)** All permits shall be valid for one shipment only and shall be void 15 days after the date of issuance.

**65.2(3)** Pre-entry permits are required for:

- a. All Cervidae.
- b. All domestic fowl or poultry originating from an AI- or END-affected state.
- c. Captive wild-type swine.
- d. Cattle and bison originating from states not classified as tuberculosis-free and brucellosis-free.

**21—65.3(163) General requirements and limitations.**

**65.3(1)** Restricted animals. The following animals are restricted from importation into the state:

- a. No animal, including poultry or birds of any species, that is affected with, or that has been recently exposed to, any

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

infectious, contagious or communicable disease or that originates from a quarantined area shall be shipped or in any manner transported or moved into Iowa, unless approved by the state veterinarian.

b. Prairie dogs (*Cynomys* sp.), tree squirrels (*Heliosciurus* sp.), rope squirrels (*Funisciurus* sp.), dormice (*Graphiurus* sp.), Gambian giant pouched rats (*Cricetomys* sp.), brush-tailed porcupines (*Atherurus* sp.), and striped mice (*Hybomys* sp.) are prohibited from importation into the state.

**65.3(2)** Cleaning and disinfection of transportation vehicles. All stock cars and trucks used for hauling into the state of Iowa livestock (cattle, horses, sheep, goats, Cervidae, poultry and swine) for feeding, breeding, or stock purposes must be cleaned and disinfected before such shipments of livestock are loaded.

**65.3(3)** Certificate of Veterinary Inspection (CVI). Animals imported into the state must be accompanied by a Certificate of Veterinary Inspection, unless specifically exempted by this chapter.

a. A Certificate of Veterinary Inspection is a legible record accomplished on an official form of the state of origin, issued by a licensed accredited veterinarian and approved by the chief livestock health official of the state of origin; or an equivalent form of the United States Department of Agriculture (USDA) issued by a federally employed veterinarian. A Certificate of Veterinary Inspection may be an official paper form or an official approved electronic form.

b. A copy of the approved CVI shall be forwarded immediately to the chief livestock health official of the state of origin for approval and transmittal.

c. An approved CVI shall not be valid more than 30 days from the date of inspection of the animals.

d. The approved CVI must accompany the animals to their final destination in Iowa.

e. All information required on the CVI must be fully completed by the issuing veterinarian and must include the following:

- (1) Name and address of the consignor;
- (2) Name and address of the consignee;
- (3) Point of origin and premises identification, if assigned by the chief livestock health official in the state of origin;
- (4) Point of destination;
- (5) Date of examination of the animals;
- (6) Number of animals examined;
- (7) Official individual identification or group identification of all animals;
- (8) Sex, age, and breed of each animal;
- (9) Test results and herd or state status on diseases specified in this chapter;
- (10) Pre-entry permit number, if required; and
- (11) A statement by the issuing veterinarian that the animals identified on the CVI are free of signs of infectious or communicable disease.

**65.3(4)** Certification for vesicular stomatitis (VS). All hoofed animals, including horses, ruminants, swine and exotic and wild hoofed animals, originating from a VS-affected state must be accompanied by an official Certificate of Veterinary Inspection which, in addition to meeting the requirements of subrule 65.3(3), includes the following statement: "All animals susceptible to Vesicular Stomatitis (VS) identified and included on this certificate have been examined and found to be free from clinical signs of VS, have not been exposed to VS, and, within the past 30 days, have not been within ten (10) miles of any site under quarantine for VS."

**21—65.4(163) Cattle and bison.****65.4(1) General.**

a. Certificate of Veterinary Inspection (CVI). All cattle and bison imported into the state must be accompanied by a CVI, except the following:

(1) Cattle or bison consigned directly to a specifically approved auction market, and

(2) Cattle or bison consigned directly to a recognized slaughter establishment.

b. Identification. All cattle and bison imported into the state must have official individual identification, except as otherwise provided in this rule.

**65.4(2) Requirements and limitations, general.**

a. Cattle or bison originating from herds or areas under quarantine shall not be admitted into the state.

b. Cattle or bison known to be infected with paratuberculosis (Johne's disease) shall not be imported except to a recognized slaughter establishment and shall be accompanied by an owner-shipper statement that identifies the animals as positive to an official Johne's disease test. Such statement shall be delivered to the consignee, unless prior approval is obtained from the state veterinarian.

c. Cattle (beef-type) and bison steers and heifers more than 6 months of age but less than 18 months of age may be imported for feeding purposes without official individual identification and quarantined to the premises of destination. However, cattle and bison originating from a state which is not a tuberculosis-free state and heifers originating from a state which is not a brucellosis-free state are not eligible for this identification exemption. The CVI must contain the statement: "These animals are quarantined to the premises of destination until moved to slaughter."

**65.4(3) Testing.**

a. Tuberculosis test. Testing requirements for tuberculosis are as follows:

(1) A tuberculosis test is not required for importation of cattle or bison provided that:

1. The cattle or bison are native to, and originate from, an accredited tuberculosis-free herd (accredited herd number and date of last test must be listed on the CVI), state, or zone; or

2. The cattle (beef-type) and bison are between the ages of 6 months and 18 months and are being imported for feeding purposes.

(2) A negative tuberculosis test is required within 30 days prior to importation for cattle or bison six months of age or older that are not exempted by 65.4(3)"a"(1).

(3) Cattle and bison less than six months of age that originate from a herd, state, or zone that is not accredited tuberculosis-free must originate from a herd which has been whole-herd tested negative for tuberculosis within 12 months prior to importation.

**b. Brucellosis test.**

(1) A brucellosis test is not required for importation of cattle or bison provided that:

1. The cattle or bison are native to, and originate from, a certified brucellosis-free herd (the herd number and date of last test shall be listed on the CVI), state, or area; or

2. The cattle and bison are official calfhood vaccinates under 18 months of age; or

3. The cattle and bison are steers or spayed heifers.

(2) A negative brucellosis test is required within 30 days prior to importation for cattle or bison six months of age or older that are not exempted by 65.4(3)"b"(1).

(3) Cattle and bison less than six months of age that originate from a herd, state or zone that is not certified brucellosis-free must originate from a herd which has been whole-herd



## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

tested negative for brucellosis within 12 months prior to importation.

(4) All brucellosis tests of cattle and bison shall be conducted by state or federal laboratories or by approved laboratories under the supervision of the chief livestock health official of the state of origin.

**65.4(4) Rodeo bulls.**

a. Tuberculosis test. A negative tuberculosis test is required within 12 months prior to importation.

b. Brucellosis test. A negative brucellosis test is required within 12 months prior to importation.

**21—65.5(163,166D) Swine.**

**65.5(1) General.**

a. Certificate of Veterinary Inspection (CVI). All swine imported into the state, except swine consigned directly to a recognized slaughter establishment, swine consigned to a specifically approved auction market, or swine that are moved in accordance with an approved swine production health plan (SPHP), must be accompanied by a CVI.

b. All swine imported into the state, except swine consigned directly to a recognized slaughter establishment, swine consigned to a specifically approved auction market, or swine that are moved in accordance with an approved swine production health plan (SPHP), must have official individual identification.

c. All swine imported into the state must originate from a herd or area not under quarantine.

d. Feral swine are not eligible for importation into the state.

**65.5(2) Breeding swine.**

a. Brucellosis test. All breeding swine imported into the state must:

(1) Originate from herds not known to be infected with, or exposed to, brucellosis and be accompanied by proof of a negative brucellosis test conducted within 30 days prior to importation; or

(2) Originate directly from a validated brucellosis-free state; or

(3) Originate directly from a validated brucellosis-free herd. The date of the last test and herd validation number must be included on the CVI.

b. Pseudorabies test. All breeding swine imported into the state must:

(1) Originate from a herd not known to be infected with, or exposed to, pseudorabies and be accompanied by proof of a negative pseudorabies test conducted within 30 days of importation; or

(2) Originate from a qualified pseudorabies negative (QN) herd (the date of last test and herd number shall be listed on the CVI); or

(3) Originate from a pseudorabies Stage IV or Stage V state.

**65.5(3) Feeder swine.**

a. Brucellosis test. Swine imported into the state for further feeding must originate from herds not known to be infected with, or exposed to, brucellosis.

b. Pseudorabies test. Swine imported into the state for further feeding must:

(1) Originate from herds not known to be infected with, or exposed to, pseudorabies and be accompanied by proof of a negative pseudorabies test conducted within 30 days prior to importation; or

(2) Originate from a qualified pseudorabies negative (QN) herd; or

(3) Originate from a pseudorabies Stage III, Stage IV or Stage V state.

**65.5(4) Captive wild-type swine.** Captive wild-type swine imported into the state must:

a. Originate from herds not known to be infected with, or exposed to, brucellosis and be accompanied by proof of a negative brucellosis test conducted within 30 days prior to importation; and

b. Originate from herds not known to be infected with, or exposed to, pseudorabies and be accompanied by proof of a negative pseudorabies test conducted within 30 days prior to importation; and

c. Have a pre-entry permit from the state veterinarian.

**65.5(5) Swine for slaughter.** All swine that are moved directly to a recognized slaughter establishment or to a specifically approved auction market for sale directly to a recognized slaughter establishment for immediate slaughter may be moved without restriction.

**21—65.6(163) Goats.**

**65.6(1) General.**

a. Certificate of Veterinary Inspection (CVI). All goats imported into the state, except goats consigned directly to a recognized slaughter establishment and goats consigned to a specifically approved auction market, must be accompanied by a CVI.

b. All sexually intact goats imported into the state that are registered, are used for exhibition, or have resided on the same premises with or been commingled with sheep must be officially identified with either ear tags or tattoos that meet the requirements specified in 9 CFR §79.2 and §79.3 and the Scrapie Eradication Uniform Methods and Rules. All other goats imported into the state must have official individual identification.

c. All goats imported into the state must originate from a herd or area not under quarantine.

**65.6(2) Breeding and dairy goats.**

**a. Brucellosis.**

(1) All sexually intact goats six months of age or older, except those for immediate slaughter, must:

1. Originate from a certified brucellosis-free herd (the date of last test and certified herd number shall be listed on the CVI); or

2. Originate from a herd not known to be infected with, or exposed to, brucellosis and be accompanied by proof of a negative brucellosis test conducted within 30 days prior to importation.

(2) Sexually intact goats less than six months of age must originate from a herd which has been whole-herd tested negative for brucellosis within the last 12 months or must originate from a certified brucellosis-free herd (the date of last test and certified herd number shall be listed on the CVI).

**b. Tuberculosis.**

(1) All goats six months of age or older must:

1. Originate from an accredited tuberculosis-free herd (the date of last test and accredited herd number shall be listed on the CVI); or

2. Originate from a herd which has been whole-herd tested negative for tuberculosis within 12 months of importation (the date of herd test shall be listed on the CVI); or

3. Originate from a herd not known to be infected with, or exposed to, tuberculosis and be accompanied by proof of a negative tuberculosis test conducted within 30 days of importation.

(2) Goats less than six months of age must originate from a herd which has been whole-herd tested negative for tuberculosis within the last 12 months or must originate from an accredited tuberculosis-free herd (the date of last test and accredited herd number shall be listed on the CVI).

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

**65.6(3) Scrapie.** Sexually intact goats from premises where scrapie has been known to exist within the last 60 months or sexually intact goats under surveillance for scrapie shall not be admitted into Iowa, except by permission of the state veterinarian for direct movement to a recognized slaughter establishment.

**21—65.7(163) Sheep.****65.7(1) General.**

a. Certificate of Veterinary Inspection (CVI). All sheep imported into the state, except sheep consigned directly to a recognized slaughter establishment for immediate slaughter or sheep consigned to a specifically approved auction market, shall be accompanied by a CVI. For animals requiring identification, the CVI must include the official scrapie flock identification number(s) for the animal(s) listed or the official individual identification for each animal.

**b. Identification.**

(1) All sheep imported into the state must be officially, individually identified with ear tags that meet the requirements specified in 9 CFR §79.2 and §79.3 and the Scrapie Eradication Uniform Methods and Rules, unless exempted pursuant to 65.7(1)“b”(2).

(2) Exemption to identification requirements. Exemptions to requirements for individual identification of sheep include:

1. Sheep less than 18 months of age consigned directly to a recognized slaughter establishment; and
2. Wethers less than 18 months of age; and
3. Sheep less than 18 months of age consigned directly to an Iowa approved terminal feedlot. The CVI must list the approved terminal feedlot number for the feedlot.

**65.7(2) Restrictions and limitations.**

a. Scabies. Sheep from scabies-quarantined areas must meet federal regulations for interstate movement.

b. Scrapie. Sheep that are known to be scrapie-positive, suspect, high-risk, or exposed, or that originate from a known infected, source, exposed, or noncompliant flock may not be imported into the state unless:

- (1) The flock from which they originate has completed an approved scrapie flock cleanup plan, or
- (2) Prior permission has been granted by the state veterinarian.

**21—65.8(163) Equine.****65.8(1) General.**

a. Certificate of Veterinary Inspection (CVI). All equine imported into the state of Iowa shall be accompanied by a CVI.

b. Equidae which are positive to a brucellosis test or which show evidence of “poll evil” or “fistulous withers” whether draining or not shall not be allowed to enter the state for any purpose.

**65.8(2) Testing—equine infectious anemia (EIA).** All Equidae imported into the state must be accompanied by proof of a negative EIA serological test conducted within 12 months prior to importation, except foals under six months of age accompanied by their dams which meet the EIA test requirements. The name of the testing laboratory, laboratory accession number, and the date of test must appear on the CVI.

**21—65.9(163) Cervidae.****65.9(1) General.****a. Definitions.**

“Cervidae” means all animals belonging to the Cervidae family.

“Chronic wasting disease” or “CWD” means a transmissible spongiform encephalopathy of cervids.

“CWD susceptible Cervidae” means all species of Cervidae susceptible to chronic wasting disease, including white-tail deer, blacktail deer, mule deer, red deer, elk, and related species and hybrids of these species.

b. Certificate of Veterinary Inspection (CVI). All Cervidae imported into the state shall be accompanied by a CVI.

c. All Cervidae imported into this state, except Cervidae consigned directly to a recognized slaughter establishment, must have a pre-entry permit. The permit number must be requested by the licensed accredited veterinarian signing the CVI and issued by the state veterinarian prior to movement of the Cervidae. The permit number must be recorded on the CVI.

**65.9(2) Requirements and limitations, general.**

a. Cervidae permitted entry into the state shall be quarantined to the premises of destination and held in isolation until inspected by a department representative.

**b. Chronic wasting disease.**

(1) Cervidae originating from an area considered to be endemic for chronic wasting disease shall not be allowed entry into Iowa. Cervidae that originate from a herd that has had animal introductions from an area endemic to chronic wasting disease during the preceding five years shall not be allowed entry into Iowa.

(2) CWD susceptible Cervidae shall only be allowed into Iowa from herds which are currently enrolled in and have satisfactorily completed at least three years in an official recognized CWD monitoring program. The CWD herd number, anniversary date, expiration date, and herd status for each individual animal must be listed on the CVI.

(3) One of the following statements must be accurate and listed on the CVI:

**1. For CWD susceptible Cervidae:**

“All Cervidae on this certificate originate from a CWD monitored or certified herd in which these animals have been kept for at least one year or were natural additions. There has been no diagnosis, sign, or epidemiological evidence of CWD in this herd for the past five years. All cervids listed are quarantined to the destination and shall be held in isolation until inspected by a department representative.”

**2. For Cervidae other than CWD susceptible Cervidae:**

“All Cervidae on this certificate have not spent any time within the past 36 months in a zoo, animal menagerie or like facility, and have not been on the same premises as a cervid herd which has been classified as a CWD infected herd, exposed herd or trace herd. All cervids listed are quarantined to the destination and shall be held in isolation until inspected by a department representative.”

(4) Each animal must have official individual identification, and all forms of identification must be listed on the certificate.

**65.9(3) Testing.**

a. Tuberculosis test. Herd status and Single Cervical Tuberculin (SCT) test (Cervidae) are according to USDA Tuberculosis Eradication in Cervidae Uniform Methods and Rules effective January 22, 1999.

(1) Cervidae six months of age or older imported into this state, except Cervidae imported directly to a recognized slaughter establishment, must:

1. Originate from a herd not under quarantine and be tested negative for tuberculosis (TB) within 90 days of im-

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

portation by the Single Cervical Tuberculin (SCT) test (Cervidae); or

2. Originate from an accredited herd (Cervidae) or originate from a qualified herd (Cervidae) and be tested negative within 90 days of importation (the test dates and herd number shall be listed on the CVI).

(2) Cervidae less than six months of age imported into the state must originate from a herd which has been whole-herd tested negative for tuberculosis within the last 12 months or must originate from an accredited herd (Cervidae).

b. Brucellosis test.

(1) Cervidae six months of age or older imported into the state, except Cervidae imported directly to a recognized slaughter establishment, must:

1. Originate from a herd not under quarantine and be accompanied by proof of a negative brucellosis test conducted within 90 days of importation; or

2. Originate from a certified brucellosis-free cervid herd or a cervid class free status state (brucellosis). The date of last test and herd number shall be listed on the CVI.

(2) Cervidae less than six months of age must originate from a herd which has been tested negative for brucellosis within the last 12 months or must originate from a certified brucellosis-free herd.

## **21—65.10(163) Dogs and cats.**

### **65.10(1) General.**

a. Certificate of Veterinary Inspection (CVI). All dogs and cats imported into the state must be accompanied by a CVI indicating apparent freedom from disease or exposure to infectious or contagious disease, except dogs for exhibition and performing dogs entering for a limited period of time.

b. Dogs or cats originating from rabies-quarantined areas shall not be admitted.

### **65.10(2) Rabies.**

a. Cats. No rabies vaccination is required.

b. Dogs. All dogs four months of age and older must have a current rabies vaccination with a USDA-approved rabies vaccine.

## **21—65.11(163) Poultry, domestic fowl, and hatching eggs.**

**65.11(1) Certificate of Veterinary Inspection (CVI).** All poultry, domestic fowl, and their hatching eggs imported into the state, except poultry and domestic fowl consigned directly to a recognized slaughter establishment or a specifically approved auction market, must be accompanied by a CVI. For poultry and hatching eggs classified under provisions of the National Poultry Improvement Plan (NPIP), a VS Form 9-3, Report of Sales of Hatching Eggs, Chicks and Poults, may be substituted for the CVI.

### **65.11(2) Restrictions and limitations, general.**

a. All poultry, domestic fowl, and their hatching eggs being imported into the state and not originating from an AI- or END-affected state must have a pre-entry permit issued by the Iowa Poultry Association. This permit may be obtained by calling (515)727-4701, extension 10.

b. Importations from an AI- or END-affected state.

(1) Approval. All domestic fowl, live poultry or poultry products from an AI- or END-affected state(s) may be considered for importation on a case-by-case basis following a risk assessment.

(2) Documentation. Poultry or poultry products must originate from a flock that is classified as AI clean under provisions of the NPIP. The CVI must indicate that the poultry or poultry products originate from an AI- or END-negative

flock and include a description of the birds, the test date, test results, and the name of the testing laboratory.

(3) Pre-entry permit. All domestic fowl, live poultry or poultry products originating from an AI- or END-affected state must have a pre-entry permit issued by the state veterinarian.

(4) Domestic fowl, live poultry or poultry products originating from a quarantined area shall not be allowed entry into the state.

### **65.11(3) Testing.**

a. Pullorum-typhoid test.

(1) An official negative test for pullorum-typhoid is required within 30 days of importation for domestic fowl or live poultry or for the flock from which hatching eggs originate unless exempted pursuant to 65.11(3)“a”(2).

(2) Exemptions to the test requirements. No test is required for the following:

1. Imported domestic fowl, live poultry or hatching eggs originating from flocks classified under provisions of the NPIP as pullorum-typhoid clean.

2. Exotic birds or other pet birds.

3. Poultry consigned directly to a recognized slaughter establishment.

b. Mycoplasma gallisepticum test—turkeys. Live turkeys or turkey hatching eggs for importation must originate from a flock that has been tested annually and can be classified as U.S. mycoplasma gallisepticum clean as provided by the NPIP. Turkeys consigned directly to a recognized slaughter establishment are not affected by this subrule.

## **21—65.12(163) Swine production health plan (SPHP).**

### **65.12(1) General.**

a. Swine production health plan. A swine production health plan is a written agreement developed for a swine production system and designed to maintain the health of the swine and detect signs of communicable disease. The plan must include all of the following:

(1) Address and contact information for all premises that are part of the swine production system and that receive or send swine in interstate commerce.

(2) Provisions for regular veterinary inspections of all swine maintained on the identified premises, at intervals no greater than 30 days, by the swine production system's licensed accredited veterinarian(s).

(3) Description of the record-keeping system of the swine production system.

(4) The signature of each official of each swine production system identified in the plan, including the swine production system's licensed accredited veterinarian(s), the state veterinarian, an APHIS representative, and the state animal health official from each state in which the swine production system has a premises.

(5) Acknowledgment that the managers of all the swine production system's premises listed in the plan have been notified that any failure of the participants in the swine production system to abide by the provisions of the plan and the applicable provisions of 9 CFR Parts 71 and 85 constitutes a basis for the cancellation of the swine production health plan.

b. Interstate swine movement report. An interstate swine movement report is a paper or electronic document detailing interstate movement of animals within a swine production health system. The interstate swine movement report must include the following information:

(1) The name, location, and premises identification number of the premises from which the swine are to be moved.

(2) The name, location, and premises identification number of the premises to which the swine are to be moved.

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

- (3) The date of movement.
  - (4) The number, age, and type of swine to be moved.
  - (5) A description of any individual identification or group identification associated with the swine.
  - (6) The name of the swine production system's licensed accredited veterinarian(s).
  - (7) The health status of the herd from which the swine are to be moved, including any disease of regulatory concern to the state or the United States Department of Agriculture (USDA) Animal Plant Health Inspection Service (APHIS).
  - (8) An accurate statement that swine on the premises from which the swine are to be moved have been inspected by the swine production system's licensed accredited veterinarian(s) within 30 days prior to the interstate movement, consistent with the dates specified by the premises' swine production health plan, and found free from signs of communicable disease.
- c. Swine production system. A swine production system is an enterprise that consists of multiple sites of swine production (i.e., sow herds, nursery herds, and growing or finishing herds) that do not include a recognized slaughter facility or livestock market, that are connected by ownership or contractual relationships, and between which swine are moved while remaining under the control of a single owner or a group of contractually connected owners.
- d. Swine production system's licensed accredited veterinarian. A swine production system's licensed accredited veterinarian is a licensed accredited veterinarian who is named in a swine production health plan for a premises within a swine production system and who performs inspection of such premises and animals and other duties related to the movement of swine in a swine production system.
- 65.12(2)** Identification of swine moving interstate within an SPHP. Swine that are moved into the state within a swine production system to other than a recognized slaughter facility or a specifically authorized livestock market are not required to be individually identified when moved, provided that the following requirements are met:
- a. The swine may be moved interstate only to another premises identified in a valid swine production health plan for that swine production system.
  - b. The swine production system must operate under a valid swine production health plan in which both the sending and receiving states have agreed to allow the movement.
  - c. The swine must have been found free from signs of any communicable disease during the most recent inspection of the premises by the swine production system's licensed accredited veterinarian(s) within 30 days prior to movement.
  - d. Prior to the movement of any swine, the producer(s) moving swine must deliver the required interstate swine movement report to the following individuals identified in the swine production health plan:
    - (1) The swine production system's licensed accredited veterinarian for the premises from which the swine are to be moved.
    - (2) The state animal health officials for the state of origin of the swine.
    - (3) The state veterinarian for the state of destination of the swine.
    - (4) Individuals designated by the state animal health officials.
    - e. The receiving premises must not commingle swine received from different premises in a manner that prevents identification of the premises that sent the swine or groups of swine. This requirement may be met by use of permanent premises or individual animal identification, by keeping

groups of animals received from one premises physically separate from animals received from other premises, or by any other effective means.

f. For each premises, the swine production system must maintain for three years after their date of creation records that will allow a state animal health official to trace any animal on the premises back to its previous premises and must maintain copies of each swine production health plan signed by the producer, all interstate swine movement reports issued by the producer, and all reports the swine production system's accredited veterinarian(s) issues documenting the health status of the swine on the premises.

g. Each premises must allow state animal health officials access to the premises upon request to inspect animals and review records.

h. Every seven calendar days, each swine production system must send the state veterinarian a written summary that is based on the interstate swine movement report data and that shows how many animals were moved in the past seven calendar days, the premises from which they were moved, and the premises to which they were moved.

**65.12(3)** Cancellation of SPHP. The following procedures apply to cancellation of, or withdrawal from, a swine production health plan:

a. The state veterinarian may cancel the state's participation in a swine production health plan by giving written notice to all swine producers, APHIS representatives, accredited veterinarians, and other state animal health officials listed in the plan. Withdrawal shall be effective upon the date specified by the state veterinarian in the notice, but for shipments in transit, withdrawal shall become effective seven days after the date of such notice. Upon withdrawal of the state, the swine production health plan may continue to operate among the other states and parties that are signatory to the plan.

b. A swine production system may withdraw one or more of its premises from participation in the plan upon giving written notice to the state veterinarian, APHIS administrator, the accredited veterinarian(s), and all swine producers listed in the plan. Withdrawal shall be effective upon the date specified by the swine production system in the written notice, but for shipments in transit, withdrawal shall become effective seven days after the date of such notice.

c. The state veterinarian shall cancel a swine production health plan after determining that swine movements within the swine production system have occurred that were not in compliance with the swine production health plan or with other requirements of this chapter. Before a swine health production plan is canceled, the state veterinarian shall inform a representative of the swine production system of the reasons for the cancellation. The swine production system may appeal the cancellation in writing in accordance with Iowa Code chapter 17A and Iowa Administrative Code 21—Chapter 2. This cancellation shall continue in effect pending the completion of the proceeding, and any judicial review thereof, unless otherwise ordered by the state veterinarian.

**21—65.13(163) Penalties.** A person violating a provision of this chapter shall be subject to a civil penalty of at least \$100 but not more than \$1,000. In the case of a continuing violation, each day of the continuing violation is a separate violation. A person who falsifies a Certificate of Veterinary Inspection shall be subject to a civil penalty of not more than \$5,000 for each reference to an animal falsified on the certificate.

These rules are intended to implement Iowa Code chapter 163.

**ARC 4071B****IOWA FINANCE AUTHORITY[265]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(17) and 16.183, the Iowa Finance Authority hereby gives Notice of Intended Action to amend Chapter 21, “Home and Community-Based Services Revolving Loan Program,” Iowa Administrative Code.

This amendment proposes a new provision concerning the home and community-based services revolving loan program operated by the Authority. The amendment provides that the Authority will refund one-half of the permanent loan commitment fee to borrowers whose loans are repaid within five years of the closing of the loan. Through this amendment, the Authority seeks to encourage prepayment of loans under this program to allow for more efficient revolving of the loan fund.

The rules in Chapter 21 do not contain a waiver provision, as the Authority does not intend to grant waivers under this program, other than as may be allowed pursuant to Chapter 18 of the Authority’s rules.

The Authority will receive written comments on the proposed amendment until 5 p.m. on April 19, 2005. Comments may be addressed to Donna Davis, Iowa Finance Authority, 100 East Grand Avenue, Suite 250, Des Moines, Iowa 50309. Comments may be faxed to Donna Davis at (515)242-4957 or E-mailed to [donna.davis@ifa.state.ia.us](mailto:donna.davis@ifa.state.ia.us). Persons who wish to comment orally should contact Donna Davis at (515) 242-4990.

The Authority anticipates that it may make changes to this amendment based on comments received from the public.

This amendment is intended to implement Iowa Code sections 16.5(17) and 16.183.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Amend subrule **21.5(4)** by adding the following **new** paragraph “c”:

c. The authority will refund to the borrower one-half of the permanent loan commitment fee if the borrower’s loan is paid off within five years of the closing of the loan.

**ARC 4074B****IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM[495]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 97B.4 and 97B.15, the Iowa Public Employees’ Retirement System (IPERS) hereby gives Notice of Intended Action to amend Chapter 4, “Employers,” Iowa Administrative Code.

The purpose of this proposed rule making is to implement new contribution rates for sheriffs and deputy sheriffs beginning July 1, 2005, as recommended by IPERS’ actuary. The recommended rates for the protection class beginning July 1, 2005, remain at the current levels. These amendments were prepared after consultation with IPERS’ actuary; the legal, benefits, investments and operational units; and the Benefits Advisory Committee.

There are no waiver provisions included in the proposed amendments.

Any person may make written suggestions or comments on the proposed amendments on or before April 19, 2005. Such written suggestions or comments should be directed to the IPERS Administrative Rules Coordinator at IPERS, P.O. Box 9117, Des Moines, Iowa 50306-9117. Persons who wish to present their comments orally may contact the IPERS Administrative Rules Coordinator at (515)281-3081. Comments may also be submitted by fax to (515)281-0045 or by E-mail to [info@ipers.org](mailto:info@ipers.org).

There will be a public hearing on April 19, 2005, at 9 a.m. at IPERS, 7401 Register Drive, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Persons who attend the hearing will be asked to give their names and addresses for the record and to confine their remarks to the subject matter of the amendments.

These amendments are intended to implement Iowa Code sections 97B.49B and 97B.49C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrules 4.6(2) and 4.6(3) as follows:

**4.6(2)** Sheriffs and deputy sheriffs, effective ~~July 1, 2004~~ *July 1, 2005*.

a. Member’s rate—~~8.535%~~ *8.2%*.

b. Employer’s rate—~~8.535%~~ *8.2%*.

**4.6(3)** Members employed in a protection occupation, effective ~~July 1, 2004~~ *July 1, 2005*.

a. Member’s rate—~~6.16%~~ *6.16%*.

b. Employer’s rate—~~9.23%~~ *9.23%*.

ITEM 2. Amend subrule 4.6(6) as follows:

**4.6(6)** Prior special rates are as follows:

Effective ~~July 1, 2003~~ *July 1, 2004*, through ~~June 30, 2004~~ *June 30, 2005*:

a. Sheriffs, ~~and~~ deputy sheriffs, ~~and~~ airport firefighters:

(1) Member’s rate—~~5.37%~~ *8.535%*.

## IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

- (2) Employer's rate—8.05% 8.535%.
- b. Protection occupation:
- (1) Member's rate—6.04% 6.16%.
- (2) Employer's rate—9.07% 9.23%.

**ARC 4084B****NATURAL RESOURCE  
COMMISSION[571]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 51, "Game Management Areas," Iowa Administrative Code.

This amendment clarifies the time by which portable blinds must be removed from game management areas.

Any interested person may make written suggestions or comments on the proposed amendment on or before April 19, 2005. Such written materials should be directed to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-6156 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

Also, public hearings will be held at 12 locations via the Iowa Communications Network (ICN) on April 19, 2005, at 7 p.m. Interested persons should contact the Department at (515)281-5918 or go to the Department's Web site at [www.iowadnr.com](http://www.iowadnr.com) for a list of hearing locations. At the hearings, persons may present their views either orally or in writing. At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who intend to attend the public hearings and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and request specific accommodations.

This amendment is intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48 and 483A.7.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend subrule **51.5(2)**, paragraph "**b**," as follows:

b. Prohibited use. Portable blinds shall be prohibited from ~~one-half~~ *one* hour after sunset until midnight each day. Portable blinds which are built on, or are part of, a boat shall be considered as removed from an area when the boat and blind are tied up or moored at an approved access site. No boat shall be anchored away from shore and left unattended unless it is attached to a legal buoy.

**ARC 4091B****NATURAL RESOURCE  
COMMISSION[571]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 91, "Waterfowl and Coot Hunting Seasons," Iowa Administrative Code.

These rules give the regulations for hunting waterfowl and coot and include season dates, bag limits, possession limits, shooting hours, and areas open to hunting. Season dates are adjusted annually to comply with federal law and to ensure that seasons open on a weekend.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 19, 2005. Such written materials should be directed to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-6156 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

Also, public hearings will be held at 12 locations via the Iowa Communications Network (ICN) on April 19, 2005, at 7 p.m. Interested persons should contact the Department at (515)281-5918 or go to the Department's Web site at [www.iowadnr.com](http://www.iowadnr.com) for a list of hearing locations. At the hearings, persons may present their views either orally or in writing. At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearings and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and request specific accommodations.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48 and 483A.7.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Rescind rule 571—91.1(481A) and adopt the following **new** rule in lieu thereof:

**571—91.1(481A) Duck hunting.**

**91.1(1)** Zone boundaries. The north duck hunting zone is that part of Iowa north of a line beginning on the Nebraska-Iowa border at State Highway 175, east to State Highway 37, southeast to U.S. Highway 59, south to I-80 and along I-80 to the Iowa-Illinois border. The south duck hunting zone is the remainder of the state.

**91.1(2)** Season dates - north zone. For canvasbacks: October 22 through November 20. For pintails: September 17 through September 21 and October 15 through November 8.

## NATURAL RESOURCE COMMISSION[571](cont'd)

For all other species: September 17 through September 21 and October 15 through December 8.

**91.1(3)** Season dates - south zone. For canvasbacks: October 29 through November 27. For pintails: September 24 through September 28 and October 22 through November 15. For all other species: September 24 through September 28 and October 22 through December 15.

**91.1(4)** Bag limit. The daily bag limit of ducks is 6, and may include no more than 4 mallards (no more than 2 of which may be females), 1 black duck, 2 wood ducks, 1 pintail, 3 scaup, 3 mottled ducks, 1 canvasback, and 2 redheads. The daily bag limit of mergansers is 5, only 1 of which may be a hooded merganser.

**91.1(5)** Possession limit. Possession limit is twice the daily bag limit.

**91.1(6)** Shooting hours. Shooting hours are one-half hour before sunrise to sunset each day.

ITEM 2. Rescind rule 571—91.3(481A) and adopt the following **new** rule in lieu thereof:

**571—91.3(481A) Goose hunting.**

**91.3(1)** Zone boundaries. The north goose hunting zone is that part of Iowa north of U.S. Highway 20. The south goose hunting zone is the remainder of the state.

**91.3(2)** Season dates - north zone. Canada geese and brant: October 1 through October 9 and October 22 through December 11. White-fronted geese: October 1 through December 25. Light geese (white and blue-phase snow geese and Ross' geese): October 1 through January 15, 2006.

**91.3(3)** Season dates - south zone. Canada geese and brant: October 8 through October 16 and October 29 through December 18. White-fronted geese: October 8 through January 1, 2006. Light geese (white and blue-phase snow geese and Ross' geese): October 1 through January 15, 2006.

**91.3(4)** Bag limit. Daily bag limit is 2 Canada geese, 2 white-fronted geese, 2 brant, and 20 snow geese.

**91.3(5)** Possession limit. The possession limit is twice the daily bag limit for Canada geese, brant and white-fronted geese. There is no possession limit for light geese.

**91.3(6)** Shooting hours. Shooting hours are one-half hour before sunrise until sunset each day.

**91.3(7)** Light goose conservation order season. Only light geese (white and blue-phase snow geese and Ross' geese) may be taken under a conservation order from the U.S. Fish and Wildlife Service from January 16, 2006, through April 15, 2006.

- a. Zone boundaries. Statewide.
- b. Shooting hours. One-half hour before sunrise to one-half hour after sunset.
- c. Bag limit. Bag limit is 20 light geese.
- d. Possession limit. No possession limit.
- e. Other regulations. The U.S. Fish and Wildlife Service may develop special regulations concerning the hunting of light geese during the conservation order season.

**91.3(8)** Early Canada goose season.

- a. Zone boundary. Statewide.
- b. Season dates. September 10 through September 11.
- c. Bag limit. Daily bag limit is 2 Canada geese, except in the Cedar Rapids/Iowa City and Des Moines goose hunting zones.
- d. Possession limit. Twice the daily bag limit.

**91.3(9)** Cedar Rapids/Iowa City goose hunting zone.

- a. Season dates. September 1 through September 15.
- b. Bag limit. Daily bag limit is 3 Canada geese.
- c. Possession limit. Twice the daily bag limit.

d. Zone boundary. The Cedar Rapids/Iowa City goose hunting zone includes portions of Linn and Johnson Counties bounded as follows: Beginning at the intersection of the west border of Linn County and Linn County Road E2W; thence south and east along County Road E2W to Highway 920; thence north along Highway 920 to County Road E16; thence east along County Road E16 to County Road W58; thence south along County Road W58 to County Road E34; thence east along County Road E34 to Highway 13; thence south along Highway 13 to Highway 30; thence east along Highway 30 to Highway 1; thence south along Highway 1 to Morse Road in Johnson County; thence east along Morse Road to Wapsi Avenue; thence south along Wapsi Avenue to Lower West Branch Road; thence west along Lower West Branch Road to Taft Avenue; thence south along Taft Avenue to County Road F62; thence west along County Road F62 to Kansas Avenue; thence north along Kansas Avenue to Black Diamond Road; thence west on Black Diamond Road to Jasper Avenue; thence north along Jasper Avenue to Rohert Road; thence west along Rohert Road to Ivy Avenue; thence north along Ivy Avenue to 340th Street; thence west along 340th Street to Half Moon Avenue; thence north along Half Moon Avenue to Highway 6; thence west along Highway 6 to Echo Avenue; thence north along Echo Avenue to 250th Street; thence east on 250th Street to Green Castle Avenue; thence north along Green Castle Avenue to County Road F12; thence west along County Road F12 to County Road W30; thence north along County Road W30 to Highway 151; thence north along the Linn-Benton County line to the point of beginning.

**91.3(10)** Des Moines goose hunting zone.

- a. Season dates. September 1 through September 15.
- b. Bag limit. Daily bag limit is 3 Canada geese.
- c. Possession limit. Twice the daily bag limit.
- d. Zone boundary. The Des Moines goose hunting zone includes those portions of Polk, Warren, Madison and Dallas Counties bounded as follows: Beginning at the intersection of Northwest 158th Avenue and County Road R38 in Polk County; thence south along County Road R38 to Northwest 142nd Avenue; thence east along Northwest 142nd Avenue to Northeast 126th Avenue; thence east along Northeast 126th Avenue to Northeast 46th Street; thence south along Northeast 46th Street to Highway 931; thence east along Highway 931 to Northeast 80th Street; thence south along Northeast 80th Street to Southeast 6th Avenue; thence west along Southeast 6th Avenue to Highway 65; thence south and west along Highway 65 to Highway 69 in Warren County; thence south along Highway 69 to County Road G24; thence west along County Road G24 to Highway 28; thence southwest along Highway 28 to 43rd Avenue; thence north along 43rd Avenue to Ford Street; thence west along Ford Street to Filmore Street; thence west along Filmore Street to 10th Avenue; thence south along 10th Avenue to 155th Street in Madison County; thence west along 155th Street to Cumming Road; thence north along Cumming Road to Badger Creek Avenue; thence north along Badger Creek Avenue to County Road F90 in Dallas County; thence east along County Road F90 to County Road R22; thence north along County Road R22 to Highway 44; thence east along Highway 44 to County Road R30; thence north along County Road R30 to County Road F31; thence east along County Road F31 to Highway 17; thence north along Highway 17 to Highway 415 in Polk County; thence east along Highway 415 to Northwest 158th Avenue; thence east along Northwest 158th Avenue to the point of beginning.

## NATURAL RESOURCE COMMISSION[571](cont'd)

ITEM 3. Amend subrule **91.4(2)**, paragraphs “e,” “f,” “h” and “i,” as follows:

e. Area five. On any federal or state-owned lands or waters of the Rathbun Reservoir Project west of State Highway 142 in Appanoose, Lucas, Monroe, and Wayne Counties, within the area bounded by the following roads: Beginning at the junction of Lucas County Road S56 and 400th Street; thence west on 400th Street to its intersection with 291st Avenue; thence north on 291st Avenue to its intersection with 410th Street; thence west on 410th Street to its intersection with 280th Avenue; thence north on 280th Avenue to its intersection with 430th Street; thence east on 430th Street to its intersection with 290th Trail; thence south and east on 290th Trail to its intersection with Lucas County Road S56; thence south on Lucas County Road S56 to the point of beginning, including all federal, state, and county roads through or immediately adjacent thereto.

f. Area six. On Brown's Slough and the Colyn Area in Lucas County.

h. Area eight. A portion of Adams County bounded as follows: Beginning at the intersection of State Highway 148 and Adams County Road N53 in Corning N28; thence east along Adams County Road N28 (including the right-of-way) to Adams County Road N53; thence east and north along Adams County Road N53 (including the right-of-way) approximately 9.5 4.5 miles to Adams County Road H24 (including the right-of-way); thence west along Adams County Road H24 (including the right-of-way) about 6 8 miles to Hickory Avenue; thence south along Hickory Avenue (including the right-of-way) about 6 2.5 miles to Adams County Road H34 N28; thence east along Adams County Road H34 N28 (including the right-of-way) to State Highway 148; thence north along State Highway 148 about three-fourths mile to the point of beginning.

i. Area twelve. Portions of Polk, Warren, Jasper, and Marion Counties bounded as follows: Beginning at the junction of County Road G40 and Iowa Highway 14 in Marion County; thence north along Highway 14 (including the right-of-way) to Iowa Highway 163 in Jasper County; thence north and west along Highway 163 (including the right-of-way) to State Highway 316 County Road F70; thence west along County Road F70 (including the right-of-way) to Highway 316; thence south and east along Highway 316 (including the right-of-way) to Iowa Highway 5; thence south and east along Highway 5 (including the right-of-way) to County Road G40 in Marion County; thence east along County Road G40 (including the right-of-way) to the point of beginning.

## ARC 4086B

### NATURAL RESOURCE COMMISSION[571]

#### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 94, “Nonresident Deer Hunting,” Iowa Administrative Code.

Chapter 94 gives the regulations for hunting deer and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of taking, and transportation tag requirements. This amendment changes tagging regulations for the bow and late muzzleloader seasons to conform to the regulations for resident hunters.

Any interested person may make written suggestions or comments on the proposed amendment on or before April 19, 2005. Such written materials should be directed to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-6156 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

Also, public hearings will be held at 12 locations via the Iowa Communications Network (ICN) on April 19, 2005, at 7 p.m. Interested persons should contact the Department at (515)281-5918 or go to the Department's Web site at [www.iowadnr.com](http://www.iowadnr.com) for a list of hearing locations. At the hearings, persons may present their views either orally or in writing. At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who intend to attend the public hearings and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and request specific accommodations.

This amendment is intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48 and 483A.7.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Rescind rule 571—94.4(481A) and adopt the following **new** rule in lieu thereof:

#### **571—94.4(481A) Limits.**

**94.4(1)** Bow season. The daily bag limit is one deer per license. The possession limit is one deer per license. A person may shoot and tag a deer only by utilizing the license and tag issued in the person's name.

**94.4(2)** Muzzleloader season. The daily bag limit is one deer per license. The possession limit is one deer per license. A person may shoot and tag a deer only by utilizing the license and tag issued in the person's name.

**94.4(3)** Regular gun seasons. The bag limit is one deer for each hunter in the party who has a valid deer transportation tag. The possession limit is one deer per license. “Possession” shall mean that the deer is in the possession of the person whose license number matches the number of the transportation tag on the carcass of the deer.

**94.4(4)** Maximum annual possession limit. The maximum annual possession limit for a nonresident deer hunter is one deer for each legal license and transportation tag obtained.



**ARC 4090B****NATURAL RESOURCE  
COMMISSION[571]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 455A.5, the Natural Resource Commission hereby gives Notice of Intended Action to rescind Chapter 98, “Wild Turkey Spring Hunting,” Iowa Administrative Code, and adopt new Chapter 98 with the same title.

These rules give the regulations for hunting wild turkeys during the spring and include season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and method of take, and transportation tag requirements. The new chapter clarifies the number and type of licenses that may be obtained, removes the minimum age limit for the youth turkey season, and opens north-west Iowa to spring hunting by nonresidents.

Any interested person may make written suggestions or comments on the proposed amendment on or before April 19, 2005. Such written materials should be directed to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-6156 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

Also, public hearings will be held at 12 locations via the Iowa Communications Network (ICN) on April 19, 2005, at 7 p.m. Interested persons should contact the Department at (515)281-5918 or go to the Department’s Web site at [www.iowadnr.com](http://www.iowadnr.com) for a list of hearing locations. At the hearings, persons may present their views either orally or in writing. At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of Chapter 98.

Any persons who intend to attend the public hearings and have special requirements such as hearing or mobility impairments should contact the Department of Natural Resources and request specific accommodations.

This amendment is intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1 and 483A.7.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Rescind 571—Chapter 98 and adopt the following **new** chapter in lieu thereof:

**CHAPTER 98****WILD TURKEY SPRING HUNTING****RESIDENT WILD TURKEY SPRING HUNTING**

**571—98.1(483A) General.** Wild turkey may be taken during the spring season subject to the following:

**98.1(1) License.** All hunters must have in possession a wild turkey spring hunting license valid for the current year when hunting wild turkey. No one, while hunting wild turkey, shall carry or have in possession any license or transportation tag issued to another hunter. A hunter having a license valid for one of the spring turkey seasons may accompany, call for, or otherwise assist any other hunter who has a valid turkey hunting license for any of the spring seasons in any zone. The hunter who is assisting may not shoot a turkey or carry a firearm or bow unless the hunter has a valid license with an unused tag for the current season and zone. If a turkey is taken, it must be tagged with the tag issued to the hunter who shot the turkey.

a. Two types of licenses will be issued.

(1) Combination shotgun-or-archery license. Combination shotgun-or-archery licenses shall be issued by zone and season and shall be valid in the designated zone and for the designated season only.

(2) Archery-only license. Archery-only licenses shall be valid statewide and shall be valid during all seasons open for spring turkey hunting.

b. Number of licenses. No one may apply for or obtain more than two spring wild turkey hunting licenses, whether free or paid. A hunter may obtain no more than two combination shotgun-or-archery licenses, or two archery-only licenses, or one of each. If two paid combination shotgun-or-archery licenses are obtained, at least one must be for season 4. If one combination shotgun-or-archery license and one archery-only license are obtained, the combination shotgun-or-archery license must be for season 4.

**98.1(2) Daily bag and possession limits.** Daily bag limit is one bearded (or male) wild turkey. Possession limit and season limit is one bearded (or male) wild turkey per license.

**98.1(3) Shooting hours.** Shooting hours shall be from one-half hour before sunrise to sunset.

**571—98.2(483A) Means and method of take.**

**98.2(1) Permitted weapons.** Wild turkey may be taken in accordance with the type of license issued as follows:

a. Combination shotgun-or-archery license. Wild turkey may be taken by shotgun or muzzleloading shotgun not smaller than 20-gauge and shooting only shot sizes number 2 or 3 nontoxic shot or number 4, 5, 6, 7½, or 8 lead or nontoxic shot; and by bow and arrow as defined in paragraph 98.2(1)“b.” A person shall not have shot shells containing shot of any size other than number 2 or 3 nontoxic shot or number 4, 5, 6, 7½, or 8 lead or nontoxic shot on the person while hunting wild turkey.

b. Archery-only license. Except for crossbows for persons with certain afflictions of the upper body, as provided in 571—15.5(481A), only longbow, compound or recurve bows shooting broadhead arrows are permitted. Blunthead arrows with a minimum diameter of 9/16 inch may also be used. Arrows must be at least 18 inches long. No explosive or chemical devices may be attached to the arrow, broadhead, or blunthead.

**98.2(2) Prohibited devices.** The use of live decoys, dogs, horses, motorized vehicles, aircraft, bait, crossbows, except as otherwise provided, and the use or aid of recorded or electronically amplified bird calls or sounds, or recorded or electronically amplified imitations of bird calls or sounds are prohibited. Paraplegics and single or double amputees of the legs may hunt from any stationary motor-driven land conveyance. “Paraplegic” means an individual afflicted with paralysis of the lower half of the body with the involvement of both legs, usually due to disease of or injury to the spinal cord. “Bait” means grain, fruit, vegetables, nuts or any other

## NATURAL RESOURCE COMMISSION[571](cont'd)

natural food materials; commercial products containing natural food materials; or by-products of such materials transported to or placed in an area for the intent of attracting wildlife.

**98.2(3) Zones.** A person with a wild turkey spring hunting license may take wild turkey in designated areas in accordance with the type of license issued. A person with an archery-only license may take wild turkey statewide. A person with a combination shotgun-or-archery license may take wild turkey in one of four zones described as follows:

- a. Zone 1. Zone 1 is all units of Stephens State Forest west of U.S. Highway 65 in Clarke and Lucas Counties only.
- b. Zone 2. Zone 2 is Shimek State Forest in Lee and Van Buren Counties only.
- c. Zone 3. Zone 3 is Yellow River State Forest in Allamakee County only.
- d. Zone 4. Zone 4 is all of Iowa except for those areas described by Zones 1, 2 and 3.

**98.2(4) Seasons.** Seasons will be established in accordance with the type of license issued.

a. Combination shotgun-or-archery licenses. Consecutive seasons are 4, 5, 7, and 19 days, respectively, with the first season beginning on the Monday closest to April 13. These seasons shall be designated as seasons 1, 2, 3 and 4, respectively.

b. Archery-only licenses. The season shall be 35 days beginning on the Monday closest to April 13.

**571—98.3(483A) Procedures to obtain licenses.** All spring wild turkey hunting licenses will be sold or may be applied for using the electronic licensing system for Iowa (ELSI). Licenses and license applications may be purchased through ELSI license agents, by calling the ELSI telephone ordering system, or through the ELSI Internet license sales Web site.

**98.3(1)** Spring wild turkey hunting licenses will be sold beginning December 15 through the last day of the season for which the license is valid or until quotas (if any) are filled, whichever occurs first. No one may obtain more than one limited quota license.

**98.3(2) License quotas.** Separate quotas will be established for each license type.

a. Combination shotgun-or-archery licenses. A limited number of combination shotgun-or-archery hunting licenses will be issued for each season in Zones 1, 2 and 3. There shall be no limit on combination shotgun-or-archery licenses in any season in Zone 4. The same quota shall apply to Zones 1, 2 and 3 in all four seasons. The maximum number of combination shotgun-or-archery licenses that will be issued in each zone for each season is as follows:

- (1) Zone 1. 65.
- (2) Zone 2. 125.
- (3) Zone 3. 80.
- (4) Zone 4. No limit.

b. Archery-only licenses. The number of archery-only licenses shall not be limited.

**98.3(3) Landowner/tenant licenses.** An eligible landowner or tenant may obtain a free combination shotgun-or-archery license or a free archery-only license. Nonresident landowners are not eligible for free turkey hunting licenses.

a. Free combination shotgun-or-archery licenses. A free combination shotgun-or-archery license will be issued by season and will be valid only on the farm unit of the landowner or tenant.

b. Free archery-only licenses. A free archery-only license will be valid for all seasons but only on the farm unit of the landowner or tenant.

c. Number of free licenses. One paid combination shotgun-or-archery license may be obtained in addition to the free shotgun-or-archery license or the free archery-only license. The paid license must be for season 4 in Zone 4.

**571—98.4(483A) Transportation tag.** Immediately upon the killing of a wild turkey, the transportation tag issued with the license and bearing the license number of the licensee, year of issuance, and date of kill properly shown shall be visibly attached to one leg of the turkey. The tag must be attached in such a manner that it cannot be removed without mutilating or destroying the tag. The tag must be attached before the carcass can be moved in any manner from the place of kill. The transportation tag shall remain affixed to the leg of the turkey until the turkey is processed for consumption. The leg that bears the tag must be attached to the carcass of any wild turkey being transported within the state during any wild turkey spring hunting season. The tag shall be proof of possession of the carcass by the above-mentioned licensee.

**571—98.5(483A) Eligibility for free landowner/tenant turkey licenses.**

**98.5(1)** Who qualifies for a free turkey hunting license. Owners or tenants of a farm unit, or a member of an owner or tenant's family who resides with the owner or tenant, are eligible for free wild turkey spring hunting licenses. The owner or tenant does not have to reside on the farm unit but must be actively engaged in farming it. Nonresident landowners do not qualify. For purposes of obtaining a free wild turkey spring hunting license, all the land under the lawful control of a landowner and eligible family members or a tenant and eligible family members shall be considered as one farm unit, regardless of how that land is subdivided for agricultural or business purposes.

**98.5(2)** Who qualifies as a tenant. A "tenant" is a person other than the landowner who is actively engaged in the operation of the farm. The tenant may be a member of the landowner's family, including in some circumstances the landowner's spouse or child, or a third party who is not a family member. The tenant does not have to reside on the farm unit.

**98.5(3)** Definition of "actively engaged in farming." Landowners and tenants are "actively engaged in farming" if they personally participate in decisions about farm operations and those decisions, along with external factors such as weather and market prices, determine their profit or loss for the products they produce. Tenants qualify if they farm land owned by another and pay rent in cash or in kind. A farm manager or other third party who operates a farm for a fee or a laborer who works on the farm for a wage and is not a family member does not qualify as a tenant.

**98.5(4)** Landowners who qualify as active farmers. These landowners:

- a. Are the sole operator of a farm unit (along with immediate family members); or
- b. Make all decisions about farm operations, but contract for custom farming or hire labor to do some or all of the work; or
- c. Participate annually in decisions about farm operations such as negotiations with federal farm agencies or negotiations about cropping practices on specific fields that are rented to a tenant; or
- d. Raise specialty crops from operations such as orchards, nurseries, or tree farms that do not necessarily produce annual income but require annual operating decisions about maintenance or improvements; or
- e. May have portions of the farm enrolled in a long-term land retirement program such as the Conservation Reserve

## NATURAL RESOURCE COMMISSION[571](cont'd)

Program (CRP) as long as other farm operations occur annually; or

f. Place their entire cropland in the CRP or other long-term land retirement program with no other active farming operation occurring on the farm.

**98.5(5)** Landowners who do not qualify. These landowners:

a. Use a farm manager or other third party to operate the farm; or

b. Cash rent the entire farm to a tenant who is responsible for all farm operations including following preapproved operations plans.

**98.5(6)** Where free licenses are valid. A free license is valid only on that portion of the farm unit that is in a zone open to turkey hunting. "Farm unit" means all parcels of land that are operated as a unit for agricultural purposes and are under lawful control of the landowner or tenant. Individual parcels of land do not need to be adjacent to one another to be included in the farm unit. "Agricultural purposes" includes but is not limited to field crops, livestock, horticultural crops (e.g., from nurseries, orchards, truck farms, or Christmas tree plantations), and land managed for timber production.

**98.5(7)** How many free licenses may be obtained. The maximum number of free licenses for the spring turkey season is two per farm unit, one for the landowner (or family member) and one for the tenant (or family member). If there is no tenant, the landowner's family may obtain only one license. A tenant or the tenant's family is entitled to only one free license even if the tenant farms land for more than one landowner.

#### **571—98.6(483A) Youth spring wild turkey hunt.**

**98.6(1)** Licenses. A special youth spring wild turkey hunting license valid statewide may be issued to any Iowa resident who is 15 years old or younger on the date the youth purchases the license. The youth license may be paid or free to persons eligible for free licenses. If the youth obtains a free landowner/tenant license, it will count as the one free license for which the youth's family is eligible. Each participating youth must be accompanied by an adult who possesses a valid wild turkey spring hunting license for one of the seasons and a hunting license and has paid the habitat fee (if the adult is normally required to have a hunting license and to pay the habitat fee to hunt). The accompanying adult must not possess a firearm or bow and must be in the direct company of the youth at all times. A person may obtain only one youth turkey hunting license but may also obtain one wild turkey spring hunting license for the last spring season in Zone 4.

**98.6(2)** Youth season dates. The youth turkey hunting license shall be valid during the Friday, Saturday and Sunday immediately before the first turkey season.

**98.6(3)** Limits and license quotas. An unlimited number of licenses may be issued. The daily and season bag and possession limit is one bearded (or male) wild turkey.

**98.6(4)** Method of take and other regulations. Wild turkeys may be taken with shotguns, muzzleloaded shotguns or bows as described in 571—98.2(483A). All other spring wild turkey hunting regulations for residents shall apply.

**98.6(5)** Procedures for obtaining licenses. Paid and free youth season licenses may be obtained through ELSI beginning December 15 through the last day of the youth season.

**571—98.7 and 98.8** Reserved.

## NONRESIDENT WILD TURKEY SPRING HUNTING

**571—98.9(483A) General.** Wild turkey may be taken during the spring season subject to the following:

**98.9(1)** License. When hunting wild turkey, all hunters must have in possession a valid nonresident spring wild turkey hunting license, a valid nonresident small game hunting license, and proof of having paid the current year's habitat fee. No one, while hunting turkey, shall carry or have in possession any license or transportation tag issued to another hunter. Licenses will be issued by zone and season and will be valid in the designated zone and season only. No one shall obtain more than one nonresident spring wild turkey hunting license. Two types of licenses will be issued:

a. Combination shotgun-or-archery license. Shotguns, muzzleloading shotguns and archery equipment as defined in subrule 98.12(1) may be used.

b. Muzzleloading shotgun-only license. Only muzzleloading shotguns as defined in subrule 98.12(1) may be used.

**98.9(2)** Seasons. Bearded (or male) wild turkey may be taken only by the use of shotguns, muzzleloading shotguns, and bow and arrow during the first, third or fourth seasons as defined in 98.2(4)"a." No nonresident hunting licenses will be issued for the second season.

**98.9(3)** Daily bag, possession and season limits. The daily bag limit is one bearded (or male) wild turkey; the possession and season limit is one bearded (or male) wild turkey.

**98.9(4)** Shooting hours. Shooting hours shall be from one-half hour before sunrise to sunset each day.

**571—98.10(483A) Zones open to hunting.** Licenses shall be valid only in designated areas as follows:

1. Zone 1. Zone 1 is all units of Stephens State Forest in Clarke and Lucas Counties west of U.S. Highway 65.

2. Zone 2. Zone 2 is the Shimek State Forest in Lee and Van Buren Counties only.

3. Zone 3. Zone 3 is the Yellow River State Forest in Allamakee County only.

4. Zone 4. Zone 4 is that portion of Iowa bounded on the north by Interstate Highway 80 and on the west by U.S. Highway 59, with the exception of the areas described as Zone 1 and Zone 2.

5. Zone 5. Zone 5 is that portion of Iowa bounded on the north by U.S. Highway 20 and on the east by U.S. Highway 59.

6. Zone 6. Zone 6 is that portion of Iowa lying east of U.S. Highway 63 and north of Interstate Highway 80, with the exception of that area described as Zone 3.

7. Zone 7. Zone 7 is that portion of Iowa bounded on the north by U.S. Highway 20, on the west by U.S. Highway 59, on the south by Interstate Highway 80, and on the east by U.S. Highway 63.

8. Zone 8. Zone 8 is that portion of Iowa north of U.S. Highway 20 and west of U.S. Highway 63.

**571—98.11(483A) License quotas.** A limited number of wild turkey hunting licenses will be issued in each zone in each season as follows:

**98.11(1)** Combination shotgun-or-archery licenses.

- a. Zone 1. Closed.
- b. Zone 2. Closed.
- c. Zone 3. Closed.
- d. Zone 4. 350.
- e. Zone 5. 75.
- f. Zone 6. 220.
- g. Zone 7. 46.
- h. Zone 8. 25.

## NATURAL RESOURCE COMMISSION[571](cont'd)

**98.11(2)** Muzzleloading shotgun-only licenses. 150 statewide. A hunter purchasing a muzzleloading shotgun license must declare a zone and hunt only in that zone.

**571—98.12(483A) Means and method of take.**

**98.12(1)** Permitted weapons. Wild turkey may be taken only with shotguns and muzzleloading shotguns not smaller than 20-gauge and shooting shot sizes 2 or 3 nontoxic shot or 4, 5, 6, 7½, and 8 lead shot. No person may have shot shells containing shot of any size other than 203 nontoxic shot or 4, 5, 6, 7½, or 8 lead shot on the person while hunting wild turkey. Except for crossbows for persons with certain afflictions of the upper body, as provided in 571—15.5(481A), only longbow, compound or recurve bows shooting broadhead arrows are permitted. Blunthead arrows with a minimum diameter of 9/16 inch may also be used. Arrows must be at least 18 inches long. No explosive or chemical devices may be attached to the arrow, broadhead, or blunthead.

**98.12(2)** Prohibited devices. The use of live decoys, dogs, horses, motorized vehicles, aircraft, bait, crossbows, except as otherwise provided, and the use or aid of recorded or electronically amplified bird calls or sounds, or recorded or electronically amplified imitations of bird calls or sounds are prohibited, except that paraplegics and single or double amputees of the legs may hunt from any stationary motor-driven land conveyance. "Paraplegic" means an individual afflicted with paralysis of the lower half of the body with the involvement of both legs, usually due to disease of or injury to the spinal cord. "Bait" means grain, fruit, vegetables, nuts or any other natural food materials; commercial products containing natural food materials; or by-products of such materials transported to or placed in an area for the intent of attracting wildlife.

**571—98.13(483A) Application procedure.** Applications for nonresident wild turkey spring hunting licenses must be made through the electronic licensing system for Iowa (ELSI) telephone ordering system or the ELSI Internet license sales Web site. Applications will be accepted from December 15 through the last Sunday in January. No one may submit more than one application during the application period. If applications have been sold in excess of the license quota for any license type, zone, or season, a drawing will be held to determine which applicants receive licenses. Licenses or refunds of license fees will be mailed to applicants after the drawing is completed. License agent writing fees, department administrative fees, Internet sales charges and telephone order charges will not be refunded. If any license quota has not been filled, the excess licenses will be sold on a first-come, first-served basis through the telephone ordering system or the Internet license sales Web site beginning the second Saturday after the close of the application period and lasting until the quota has been filled or the last day of the season for which the license is valid, whichever occurs first. No one may obtain more than one nonresident wild turkey spring hunting license. Hunters may apply individually or as a group of up to 15 applicants. All members of a group will be accepted or rejected as a group in the drawing. If a group is rejected, members of that group may purchase licenses individually if excess licenses are available.

Each individual applicant who is unsuccessful in the drawing will be assigned one preference point for each consecutive year in which the individual applies and is unsuccessful. Preference points will not accrue in a year in which an applicant fails to apply, but the applicant will retain any preference points previously earned. Once an applicant receives a license, all preference points will be erased. Prefer-

ence points will apply to any zone or season for which a hunter applies.

The first license drawing each year will be made from the pool of applicants with the most preference points. If licenses are still available after the first drawing, subsequent drawings will be made from pools of applicants with successively fewer preference points and continue until the license quota is reached or all applicants have received licenses. Applicants who apply as a group will be included in a pool of applicants with the same number of preference points as that of the member of the group with the fewest preference points assigned.

**571—98.14(483A) Transportation tag.** Immediately upon the killing of a wild turkey, the transportation tag issued with the license and bearing the license number of the licensee, year of issuance, and date of kill properly shown shall be visibly attached to one leg of the turkey. The tag must be attached in such a manner that it cannot be removed without mutilating or destroying the tag. The tag must be attached before the carcass can be moved in any manner from the place of kill. The transportation tag shall remain affixed to the leg of the turkey until the turkey is processed for consumption. The leg that bears the tag must be attached to the carcass of any wild turkey being transported within the state during any wild turkey spring hunting season. The tag shall be proof of possession of the carcass by the above-mentioned licensee.

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1 and 483A.7.

**ARC 4087B****NATURAL RESOURCE COMMISSION[571]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 455A.5, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 99, "Wild Turkey Fall Hunting by Residents," Iowa Administrative Code.

These amendments change the number of licenses a hunter may have, add a new hunting zone in northwest Iowa, change the tagging requirements to conform to the spring turkey season and permit the use of dogs for fall turkey hunting.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 19, 2005. Such written materials should be directed to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-6156 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

Also, public hearings will be held at 12 locations via the Iowa Communications Network (ICN) on April 19, 2005, at 7 p.m. Interested persons should contact the Department at (515)281-5918 or go to the Department's Web site at [www.iowadnr.com](http://www.iowadnr.com) for a list of hearing locations. At the hearings,

## NATURAL RESOURCE COMMISSION[571](cont'd)

persons may present their views either orally or in writing. At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearings and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and request specific accommodations.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48 and 483A.7.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Rescind rule 571—99.2(481A) and adopt the following **new** rule in lieu thereof:

**571—99.2(481A) Licenses.**

**99.2(1)** Paid combination shotgun-or-archery licenses. Paid combination shotgun-or-archery licenses shall be valid for taking turkeys of either sex in the zone designated on the license.

**99.2(2)** Paid archery-only licenses. Paid archery-only licenses shall be valid statewide for taking turkeys of either sex.

**99.2(3)** Number of licenses. No one may apply for or obtain more than two wild turkey fall hunting licenses, whether free or paid, prior to November 1. A hunter may obtain no more than two combination shotgun-or-archery licenses, or two archery-only licenses, or one of each. Beginning November 1, a hunter may obtain an additional combination shotgun-or-archery license if quotas are not filled. One license of either type may be free to eligible landowners or tenants.

ITEM 2. Amend rule 571—99.4(481A) by adopting the following **new** subrule:

**99.4(9)** Zone 9. Zone 9 is that portion of Iowa bounded on the south by U.S. Highway 20 and on the east by U.S. Highway 69.

ITEM 3. Amend subrule **99.5(1)** by adopting the following **new** paragraph "i":

i. Zone 9. 200.

ITEM 4. Amend subrule 99.8(2) as follows:

**99.8(2)** Prohibited devices. The use of live decoys, dogs, horses, motorized vehicles, aircraft, bait and the use or aid of recorded or electronically amplified bird calls or sounds, or recorded or electronically amplified imitations of bird calls or sounds is ~~are~~ prohibited, ~~except that paraplegics~~. *Paraplegics* and single or double amputees of the legs may hunt from any stationary motor-driven land conveyance. "Paraplegic" means an individual afflicted with paralysis of the lower half of the body with the involvement of both legs, usually due to disease of or injury to the spinal cord. "Bait" means grain, fruit, vegetables, nuts or any other natural food materials; commercial products containing natural food materials; or by-products of such materials transported to or placed in an area for the intent of attracting wildlife.

ITEM 5. Rescind rule 571—99.10(481A) and adopt the following **new** rule in lieu thereof:

**571—99.10(481A) Transportation tag.** Immediately upon the killing of a wild turkey, the transportation tag issued with

the license and bearing the license number of the licensee, year of issuance, and date of kill properly shown shall be visibly attached to one leg of the turkey. The tag must be attached in such a manner that it cannot be removed without mutilating or destroying the tag. The tag must be attached before the carcass can be moved in any manner from the place of kill. The transportation tag shall remain affixed to the leg of the turkey until the turkey is processed for consumption. The leg that bears the tag must be attached to the carcass of any wild turkey being transported within the state during any wild turkey hunting season. The tag shall be proof of possession of the carcass by the above-mentioned licensee.

**ARC 4088B****NATURAL RESOURCE COMMISSION[571]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 455A.5, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 106, "Deer Hunting by Residents," Iowa Administrative Code.

The amendments extend the special January season for antlerless deer, list license quotas for antlerless deer licenses, close roadways from deer hunting north of U.S. Highway 30, and clarify penalties for providing false information when obtaining a deer license.

The Commission gives notice that the final rule making may have to be changed substantially from this Notice of Intended Action depending on pending legislative action and the outcome of deer population surveys currently underway. If surveys indicate that the deer harvest must be substantially increased to meet the Department's goals for herd reduction, additional changes may be made. Such changes could include season dates, bag limits, number and type of seasons, license types and other changes that may be deemed necessary.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 19, 2005. Such written materials should be directed to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-6156 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

Also, public hearings will be held at 12 locations via the Iowa Communications Network (ICN) on April 19, 2005, at 7 p.m. Interested persons should contact the Department at (515)281-5918 or go to the Department's Web site at [www.iowadnr.com](http://www.iowadnr.com) for a list of hearing locations. At the hearings, persons may present their views either orally or in writing. At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

## NATURAL RESOURCE COMMISSION[571](cont'd)

Any persons who intend to attend the public hearings and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and request specific accommodations.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48 and 483A.7.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Rescind rule 571—106.1(481A) and adopt the following **new** rule in lieu thereof:

**571—106.1(481A) Licenses.** When hunting deer, all hunters must have in their possession a valid deer hunting license and a valid resident hunting license and must have paid the habitat fee (if normally required to have a hunting license and to pay the habitat fee to hunt). No person while hunting deer shall carry or have in possession any license or transportation tag issued to another person.

**106.1(1) Type of license.**

a. Any-deer licenses. Any-deer licenses shall be valid for taking deer of either sex. Paid any-deer licenses shall be valid statewide or in a deer population management area and in one season as designated on the license. Free any-deer licenses shall be valid only on the farm unit of an eligible landowner or tenant in the season or seasons designated on the license.

b. Antlerless-deer-only licenses. Antlerless-deer-only licenses shall be valid for taking deer that have no visible forked antler. Paid antlerless-deer-only licenses shall be valid in one county or in one deer population management area and in one season as designated on the license. Free antlerless-deer-only licenses shall be valid on the farm unit of an eligible landowner or tenant in the season designated on the license.

**106.1(2) Bow season licenses.** Any-deer and antlerless-deer-only licenses, paid or free, shall be valid in both segments of the bow season.

**106.1(3) Regular gun season licenses.** Paid any-deer and antlerless-deer-only licenses shall be valid in either the first or the second gun season. Free any-deer licenses shall be valid in both the first and second gun seasons, as designated.

**106.1(4) Muzzleloader season licenses.** Any-deer and antlerless-deer-only licenses, paid or free, shall be valid in either the early or the late muzzleloader season, as designated.

**106.1(5) Special late season licenses.** Only antlerless-deer-only licenses shall be issued for the special late season.

**106.1(6) Free licenses for landowners and tenants.** Free any-deer licenses for eligible landowners and tenants shall be available for the youth and severely disabled hunter seasons, bow season, early or late muzzleloader season, or first and second regular gun seasons. For purposes of obtaining a free deer hunting license, all the land under the lawful control of a landowner and eligible family members or a tenant and eligible family members shall be considered as one farm unit, regardless of how that land is subdivided for agricultural or business purposes. A free antlerless-deer-only license for the special late season may be issued to landowners and tenants who have a portion of their farm unit in a county open during that season and who have already obtained a free any-deer license. The free antlerless-deer-only license shall be valid only in that portion of the farm unit located in a county open during the special late season. Landowners and tenants or

their eligible family members who receive a free any-deer license may also purchase up to two antlerless-deer-only licenses for \$10 each that shall be valid in any season but only on the farm unit.

ITEM 2. Amend subrule 106.2(4) as follows:

**106.2(4) Special late season.** Antlerless deer may be taken by shotgun, muzzleloading rifle, muzzleloading pistol, handgun or bow as permitted in 571—106.7(481A) from January 11 through January 23. *The season may be extended through the last Sunday in January in counties where additional deer harvest is required.* All participants must meet the deer hunters' orange apparel requirement in Iowa Code section 481A.122. All other regulations for taking deer with a firearm or bow shall apply.

ITEM 3. Amend rule 571—106.5(481A) as follows:

**571—106.5(481A) Areas open closed to hunting.**

**106.5(1) Paid deer licenses.** Hunters shall be restricted to the type of deer they shoot based on the season, dates, county or zone in which they hunt.

a. ~~Bow season.~~ Any deer may be taken in all counties.

b. ~~Muzzleloader seasons.~~ Any deer may be taken in all counties.

c. ~~Regular gun seasons.~~ Any deer may be taken in all counties.

**106.5(2) Paid antlerless deer licenses.**

a. ~~Paid antlerless-only deer licenses shall be valid only for antlerless deer and only in the season and county designated on the license. Paid antlerless-only deer licenses shall be available in all Iowa counties. An antlerless deer is defined as a deer without a visible antler or with no antler longer than 7 inches.~~

b. ~~Paid antlerless-only deer licenses for the special late season shall be valid only for antlerless deer and only in the season and county designated on the license. Paid antlerless-only deer licenses for the special late season shall be available in all counties. An antlerless deer is defined as a deer without a visible antler or with no antler longer than 7 inches.~~

**106.5(3) Free landowner/tenant licenses.** ~~Free landowner/tenant licenses shall be valid for hunting any deer. Free regular gun season licenses shall be valid for both the first and second regular gun seasons.~~

**106.5(4) Closed areas.** There shall be no open seasons for hunting deer on the county roads immediately adjacent to or through Union Slough National Wildlife Refuge, Kossuth County, where posted accordingly. There shall be no open seasons for hunting deer on all portions of rights-of-way on Interstate Highways 29, 35, 80 and 380.

ITEM 4. Amend subrule 106.6(5) as follows:

**106.6(5) Antlerless-only licenses.** Paid antlerless-only licenses will be available to eligible persons by county as follows:

Adair	1250	Floyd	500	Monona	650
Adams	1300	Franklin	350	Monroe	1000
Allamakee	2500	Fremont	750	Montgomery	50
Appanoose	1600	Greene	200	Muscatine	1400
Audubon	350	Grundy	100	O'Brien	100
Benton	1000	Guthrie	2000	Osceola	100
Black Hawk	150	Hamilton	150	Page	1000
Boone	450	Hancock	100	Palo Alto	100
Bremer	400	Hardin	500	Plymouth	150
Buchanan	400	Harrison	700	Pocahontas	100
Buena Vista	100	Henry	1400	Polk	400
Butler	700	Howard	1000	Pottawattamie	1000
Calhoun	100	Humboldt	100	Poweshiek	500

## NATURAL RESOURCE COMMISSION[571](cont'd)

Carroll	150	Ida	100	Ringgold	1800
Cass	500	Iowa	1200	Sac	100
Cedar	1000	Jackson	1500	Scott	1000
Cerro Gordo	150	Jasper	500	Shelby	200
Cherokee	100	Jefferson	1500	Sioux	150
Chickasaw	1000	Johnson	1900	Story	250
Clarke	1000	Jones	1400	Tama	800
Clay	100	Keokuk	1400	Taylor	1750
Clayton	3000	Kossuth	300	Union	1200
Clinton	1000	Lee	2000	Van Buren	3000
Crawford	150	Linn	1700	Wapello	1250
Dallas	1000	Louisa	1400	Warren	600
Davis	2500	Lucas	550	Washington	1800
Decatur	2000	Lyon	100	Wayne	1400
Delaware	1100	Madiso	1200	Webster	200
Des Moines	1500	Mahaska	900	Winnebago	100
Dickinson	100	Marion	750	Winneshiek	2000
Dubuque	1750	Marshall	400	Woodbury	750
Emmet	100	Mills	750	Worth	250
Fayette	1750	Mitchell	400	Wright	100

ITEM 5. Amend subrule 106.7(5) as follows:

**106.7(5)** Discharge of firearms from roadway. No person shall discharge a shotgun shooting slugs or muzzleloader from a highway during the regular gun seasons in all counties and parts of counties north of Highway 30 and west of Highway 63. "Highway" means the way between property lines open to the public for vehicle traffic as defined in Iowa Code section 321.1(78).

ITEM 6. Rescind subrule 106.8(3) and adopt the following **new** subrule in lieu thereof:

**106.8(3)** Providing false information. Anyone who provides false information about the person's personal identity, eligibility for resident deer licenses, or eligibility for any paid or free landowner-tenant deer license, and who attests that the information is correct by accepting the license, shall be guilty of a misdemeanor. In addition to any legal penalties that may be imposed, obtaining a license in such a manner shall invalidate that deer license and transportation tag and any other deer hunting license and transportation tag obtained during the same year.

## ARC 4089B

### NATURAL RESOURCE COMMISSION[571]

#### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 455A.5, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 108, "Mink, Muskrat, Raccoon, Badger, Opossum, Weasel, Striped Skunk, Fox (Red and Gray), Beaver, Coyote, Otter and Spotted Skunk Seasons," Iowa Administrative Code.

The amendments extend the muskrat season on selected marshes and add the bobcat and the gray (timber) wolf to the list of species with continuous closed seasons.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 19, 2005. Such written materials should be directed to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-6156 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

Also, public hearings will be held at 12 locations via the Iowa Communications Network (ICN) on April 19, 2005, at 7 p.m. Interested persons should contact the Department at (515)281-5918 or go to the Department's Web site at [www.iowadnr.com](http://www.iowadnr.com) for a list of hearing locations. At the hearings, persons may present their views either orally or in writing. At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearings and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and request specific accommodations.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48 and 483A.7.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend **571—Chapter 108**, title, as follows:

#### CHAPTER 108

MINK, MUSKRAT, RACCOON, BADGER, OPOSSUM, WEASEL, STRIPED SKUNK, FOX (RED AND GRAY), BEAVER, COYOTE, OTTER, *BOBCAT, GRAY (TIMBER) WOLF* AND SPOTTED SKUNK SEASONS

ITEM 2. Amend subrule 108.1(2) as follows:

**108.1(2)** Game management areas. Open season for taking muskrats on certain state game management areas, certain federal national wildlife refuges, and certain county conservation board areas, only where approved by the ~~natural resource commission wildlife bureau~~ and posted accordingly, shall be from 8 a.m. ~~the last Saturday in February through April 15 of succeeding year~~ *the day after the regular muskrat trapping season ends until April 15*. The use of leg-hold traps during this season is prohibited unless each trap is placed completely inside a muskrat house. No bag or possession limit.

ITEM 3. Amend rule 571—108.6(481A) as follows:

**571—108.6(481A)** *Otter, bobcat, gray (timber) wolf, and spotted skunk.* Continuous closed season.

**ARC 4072B****PROFESSIONAL LICENSURE  
DIVISION[645]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Dietetic Examiners hereby gives Notice of Intended Action to amend Chapter 81, “Licensure of Dietitians,” Chapter 82, “Continuing Education for Dietitians,” and Chapter 84, “Fees,” Iowa Administrative Code.

These proposed amendments define licensure status as active or inactive, define the process for license reactivation and reinstatement, change from pre- and post-continuing education audits prior to licensure to post-continuing education audits following licensure, add the grounds for disciplinary action, and establish the fee for reactivation.

Any interested person may make written comments on the proposed amendments on or before April 19, 2005, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075, E-mail [pwilson@idph.state.ia.us](mailto:pwilson@idph.state.ia.us).

A public hearing will be held on April 19, 2005, from 10 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 152A and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **645—81.1(152A)** by rescinding the definition of “lapsed license” and adding the following **new** definitions in alphabetical order:

“Active license” means a license that is current and has not expired.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“Reactivate” or “reactivation” means the process as outlined in rule 81.15(17A,147,272C) by which an inactive license is restored to active status.

“Reinstatement” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or with-

out conditions. Once the license is reinstated, the licensee may apply for active status.

ITEM 2. Amend rule **645—81.7(152A)** by rescinding numbered paragraph “6” and inserting in lieu thereof the following **new** numbered paragraph:

6. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

- Licensee’s name;
- Date of initial licensure;
- Current licensure status; and
- Any disciplinary action taken against the license.

ITEM 3. Rescind subrule 81.9(1) and adopt in lieu thereof the following **new** subrule:

**81.9(1)** The biennial license renewal period for a license to practice dietetics shall begin on the sixteenth day of the licensee’s birth month and end on the fifteenth day of the licensee’s birth month two years later. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

ITEM 4. Rescind subrule 81.9(3) and adopt in lieu thereof the following **new** subrule:

**81.9(3)** A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—82.2(152A) and the mandatory reporting requirements of subrule 81.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

ITEM 5. Rescind subrule 81.9(5) and adopt in lieu thereof the following **new** subrule:

**81.9(5)** Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

ITEM 6. Amend subrule 81.9(7) as follows:

**81.9(7)** Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 84.1(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within 30 days following the expiration date on the wallet card the grace period.

ITEM 7. Adopt **new** subrule 81.9(8) as follows:

**81.9(8)** Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a dietitian in Iowa until the license is reactivated. A licensee who practices as a dietitian in the state of Iowa with an inactive license may be subject to disciplinary action by the board, in-



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

junctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

ITEM 8. Rescind and reserve rule **645—81.10(272C)**.

ITEM 9. Rescind and reserve rule **645—81.13(17A,147,272C)**.

ITEM 10. Rescind rule 645—81.14(17A,147,272C) and adopt in lieu thereof the following **new** rule:

**645—81.14(17A,147,272C) License denial.**

**81.14(1)** When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

**81.14(2)** An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

**81.14(3)** If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

ITEM 11. Adopt the following **new** rules:

**645—81.15(17A,147,272C) License reactivation.** To apply for reactivation of an inactive license, a licensee shall:

**81.15(1)** Submit a reactivation application on a form provided by the board.

**81.15(2)** Pay the reactivation fee that is due as specified in 645—subrule 84.1(4).

**81.15(3)** Provide verification of current competence to practice dietetics by satisfying one of the following criteria:

a. If the applicant has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license.

(2) Verification of completion of 30 hours of continuing education within two years of the application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;

2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license.

(2) Verification of completion of 60 hours of continuing education within two years of application for reactivation.

**645—81.16(17A,147,272C) License reinstatement.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 81.15(17A,147,272C) prior to practicing dietetics in this state.

ITEM 12. Amend rule **645—82.1(152A)** as follows:

Rescind the definitions of "administrator," "approved sponsor," and "lapsed license."

Amend the following definitions:

"Active license" means the license of a person who is acting, practicing, functioning, and working in compliance with license requirements *is current and has not expired*.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period *or the selection of providers for verification of adherence to continuing education provider requirements during a specified time period*.

"Hour of continuing education" means *a clock hour at least 50 minutes* spent by a licensee in actual attendance at and completion of approved continuing education activity.

"Inactive license" means *the license of a person who is not engaged in practice in the state of Iowa a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired*.

Further amend rule 645—82.1(152A) by adopting the following **new** definition:

"Independent study" means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

ITEM 13. Amend subrules 82.2(3) and 82.2(4) as follows:

**82.2(3)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be approved by the board and *meet the requirements herein pursuant to statutory provisions and the rules that implement them in accordance with these rules*.

**82.2(4)** No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. *A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.*

ITEM 14. Amend rule 645—82.3(152A), catchwords, as follows:

**645—82.3(152A) Standards for approval.**

ITEM 15. Amend subrule **82.3(1)**, introductory paragraph and paragraph "c," as follows:

**82.3(1)** General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit *if it is determined by the board that the continuing education activity:*

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

subject matter of the program. ~~An application must be accompanied by a paper, manual or outline which substantively pertains to the subject matter of the program and reflects program schedule, goals and objectives. The At the time of audit, the board may request the qualifications of presenters;~~

ITEM 16. Amend subrule **82.3(1)**, paragraph “e,” subparagraphs (2) and (3), as follows:

(2) Number of program contact hours. ~~(One contact hour equals one hour of continuing education credit.); and~~

(3) ~~Official signature or verification by program sponsor~~ *Certificate of completion or evidence of successful completion of the course provided by the course sponsor.*

ITEM 17. Rescind rule 645—82.4(152A,272C) and adopt the following **new** rule in lieu thereof:

**645—82.4(152A,272C) Audit of continuing education report.** After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

**82.4(1)** The board may audit a percentage of its licensees and may, at its discretion, determine to audit a licensee. A licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

**82.4(2)** The licensee shall provide the following information to the board for auditing purposes:

a. Date and location of course, course title, course description, course outline, course schedule, names and qualifications of instructors/speakers and method of presentation; or a program brochure which includes all the information required in this rule;

b. Number of contact hours for program attended; and

c. Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor.

**82.4(3)** For auditing purposes, all licensees must retain the above information for two years after the biennium has ended.

**82.4(4)** Information identified in subrule 82.4(2) must be submitted within one month after the date of notification of the audit. Extension of time may be granted on an individual basis.

**82.4(5)** If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit if the board determines that the deficiency was the result of good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is within 120 days from the date of mailing to the address of record at the board office.

**82.4(6)** Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

ITEM 18. Rescind rule 645—82.5(152A,272C) and adopt the following **new** rule in lieu thereof:

**645—82.5(152A,272C) Automatic exemption.** A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or

2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or

3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or

4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

ITEM 19. Rescind rules **645—82.6(152A,272C)**, **645—82.7(152A,272C)**, and **645—82.8(152A,272C)** and adopt the following **new** rule:

**645—82.6(152A,272C) Grounds for disciplinary action.** The board may take formal disciplinary action on the following grounds:

**82.6(1)** Failure to cooperate with a board audit.

**82.6(2)** Failure to meet the continuing education requirement for licensure.

**82.6(3)** Falsification of information on the license renewal form.

**82.6(4)** Falsification of continuing education information.

ITEM 20. Rescind rule 645—82.9(152A,272C) and adopt the following **new** rule in lieu thereof:

**645—82.9(152A,272C) Continuing education exemption for disability or illness.** A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. Applicants shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver to a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

**82.9(1)** The board may grant an extension of time to fulfill the continuing education requirement.

**82.9(2)** The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

**82.9(3)** The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

ITEM 21. Rescind rules **645—82.10(152A,272C)** and **645—82.11(152A,272C)**.

ITEM 22. Amend subrules 84.1(4) and 84.1(5) as follows:

**84.1(4)** ~~Reinstatement fee for a lapsed license or an inactive license is \$50~~ *Reactivation fee is \$150.*

**84.1(5)** Duplicate or reissued license certificate *or wallet card* fee is \$10.

ITEM 23. Rescind subrule **84.1(6)** and renumber subrules **84.1(7)** to **84.1(9)** as **84.1(6)** to **84.1(8)**.

**ARC 4073B****PROFESSIONAL LICENSURE  
DIVISION[645]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Dietetic Examiners hereby gives Notice of Intended Action to amend Chapter 83, “Discipline for Dietitians,” Iowa Administrative Code.

Proposed new subrule 83.2(31) provides the Board the ability to discipline a licensee for breach of an agreement or contract with the Impaired Practitioner Review Committee.

Any interested person may make written comments on the proposed amendment on or before April 19, 2005, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075, E-mail [pwilson@idph.state.ia.us](mailto:pwilson@idph.state.ia.us).

A public hearing will be held on April 19, 2005, from 10 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

This amendment is intended to implement Iowa Code chapters 21, 147, 152A and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Adopt the following **new** subrule:

**83.2(31)** Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

**ARC 4081B****PUBLIC HEALTH  
DEPARTMENT[641]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 139A.3, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 1, “Notification and Surveillance

of Reportable Communicable and Infectious Diseases, Poisonings and Conditions,” Iowa Administrative Code.

These amendments authorize the Department to accept required reports of reportable diseases by secure electronic means in addition to the current specified methods of mail, telephone, or facsimile. This change is proposed because technological advancements in secure electronic transmission of information offer more efficient handling of disease reports at no additional cost and, in some circumstances, at reduced cost. These amendments further add information about reportable cancers and how they are to be reported.

Any interested person may make written suggestions or comments on these proposed amendments on or before April 19, 2005. Such written materials should be directed to John Satre, Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075; fax (515)281-4355.

These amendments are intended to implement Iowa Code section 139A.3.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **641—1.1(139A)** by adding, in alphabetical order, the following **new** definition:

“Reportable cancers” means those cancers included in the National Cancer Institute’s Surveillance, Epidemiology and End Results (SEER) Program.

ITEM 2. Amend rule 641—1.2(139A) as follows:

**641—1.2(139A) Director of public health Authority.** The director of public health is the principal officer of the state to administer disease reporting and control procedures. *The State Health Registry of Iowa, administered by the department of epidemiology of the College of Public Health of the University of Iowa, is a public health authority for purposes of collecting cancer data in accordance with this chapter.*

ITEM 3. Amend subrule **1.3(1)**, paragraph “b,” footnote, \*\*\*NOTE, as follows:

\*\*\*NOTE: For these particular diseases, physicians and other health practitioners should not send a report to the department. *The department has delegated to the State Health Registry of Iowa has been delegated the responsibility for collecting this data through review of records from hospitals, radiation treatment centers, outpatient surgical facilities, oncology clinics, pathology laboratories, and physician offices. Prior to collecting the data from an office or facility, the State Health Registry of Iowa shall work with the office or facility to develop a process for abstracting records which is agreeable to the office or facility.*

ITEM 4. Amend subrule 1.4(2) as follows:

**1.4(2)** Reporting of other reportable diseases. Cases of other reportable diseases and conditions not included in 1.4(1) shall be reported to the department at least weekly by mail, telephone, facsimile, *or other secure electronic means.* If the department determines that reporting by mail hinders the application of organized control measures to protect the public health, the department may require that the disease or condition be reported by telephone.

ITEM 5. Add **new** subrule 1.4(4) as follows:

**1.4(4)** Each occurrence of a reportable cancer that is diagnosed or treated in an Iowa resident or occurs in a nonresident

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

who is diagnosed or treated in an Iowa facility shall be reported to the State Health Registry of Iowa, administered by the Department of Epidemiology of the College of Public Health at the University of Iowa by mail, telephone or electronic means.

ITEM 6. Add **new** subrule 1.5(4) as follows:

**1.5(4)** Reportable cancers shall be reported on the forms developed and distributed by the State Health Registry of Iowa. Data from the report forms will be supplemented with information obtained from records from hospitals, radiation treatment centers, outpatient surgical centers, oncology clinics, pathology laboratories, and physician offices through an

abstracting process developed by the State Health Registry of Iowa. Tissue samples may also be submitted under the authority of this rule. The content of the reports shall include, but not be limited to, follow-up data and demographic, treatment, and medical information.

ITEM 7. Add **new** subrule 1.6(9) as follows:

**1.6(9)** Occurrences of reportable cancers shall be reported by health care providers, registrars employed by the State Health Registry of Iowa, registrars employed by facilities, and health care providers involved in the diagnosis, care, or treatment of individuals with a reportable cancer.

**ARC 4070B****EDUCATIONAL EXAMINERS  
BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 14, "Issuance of Practitioner's Licenses and Endorsements," Iowa Administrative Code.

The amendments to the teacher intern license will allow for more innovation and flexibility, while still ensuring the integrity of program standards.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 5, 2005, as **ARC 3922B**. A public hearing on the amendments was held on January 25, 2005. No one attended the public hearing, and no written comments were received. These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code chapter 272.

These amendments will become effective May 4, 2005.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [14.129] is being omitted. These amendments are identical to those published under Notice as **ARC 3922B**, IAB 1/5/05.

[Filed 3/10/05, effective 5/4/05]  
[Published 3/30/05]

[For replacement pages for IAC, see IAC Supplement 3/30/05.]

**ARC 4078B****ENGINEERING AND LAND  
SURVEYING EXAMINING  
BOARD[193C]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board amends Chapter 2, "Fees and Charges," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 22, 2004, as **ARC 3902B**. This amendment is identical to the one published under Notice of Intended Action.

This amendment is intended to clarify the Board's rules regarding the fees for reinstatement of a lapsed license and the end date for late renewals.

This amendment was adopted by the Board on March 3, 2005.

This amendment shall become effective May 4, 2005.

This amendment is intended to implement Iowa Code sections 542B.13, 542B.15, 542B.20 and 542B.30.

The following amendment is adopted.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [2.1] is being omitted. This amendment is

identical to the one published under Notice as **ARC 3902B**, IAB 12/22/04.

[Filed 3/11/05, effective 5/4/05]  
[Published 3/30/05]

[For replacement pages for IAC, see IAC Supplement 3/30/05.]

**ARC 4077B****ENGINEERING AND LAND  
SURVEYING EXAMINING  
BOARD[193C]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board amends Chapter 7, "Professional Development," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 22, 2004, as **ARC 3903B**. These amendments are identical to those published under Notice of Intended Action.

These amendments clarify the Board's rules regarding the definitions of various professional development activities and the calculation of professional development hours. These amendments also increase the maximum allowable professional development hours for independent study from six PDH per biennium to ten PDH per biennium.

These amendments were adopted by the Board on March 3, 2005.

These amendments shall become effective May 4, 2005.

These amendments are intended to implement Iowa Code sections 272C.2, 272C.3, 542B.6 and 542B.18.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [7.2, 7.3, 7.4(3), 7.4(4)] is being omitted. These amendments are identical to those published under Notice as **ARC 3903B**, IAB 12/22/04.

[Filed 3/11/05, effective 5/4/05]  
[Published 3/30/05]

[For replacement pages for IAC, see IAC Supplement 3/30/05.]

**ARC 4083B****ETHICS AND CAMPAIGN  
DISCLOSURE BOARD, IOWA[351]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 6, "Executive Branch Ethics," Iowa Administrative Code.

The amendment reflects the legislative mandate in Iowa Code section 68B.32A(12) for the Ethics and Campaign Disclosure Board to adopt a rule on the misuse of public property by executive branch officials, employees, and candidates for statewide office.

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

This amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on December 22, 2004, as **ARC 3899B**. No oral or written comments on the amendment were received during the public comment period. One comment received after the public comment period that the Board considered to have merit was received from the General Counsel of Iowa State University. As a result of this comment, one change from the Notice has been made: Paragraph “b” of subrule 6.8(2) was changed to reflect that obscene material could be knowingly sent or received using a state computer when part of a law enforcement investigation or when otherwise authorized by law to be sent or received.

The Board adopted this amendment on February 17, 2005.

This amendment is intended to implement Iowa Code section 68B.32A(12).

This amendment will become effective on May 4, 2005.

The following amendment is adopted.

Adopt **new** rule 351—6.8(68B) as follows:

**351—6.8(68B) Misuse of public property.** Iowa Code section 68B.32A(12) directs the board to establish rules relating to the misuse of public property by officials, employees, and candidates for statewide office.

**6.8(1) Definition of public property.** “Public property” means any real or personal property owned or controlled by the state of Iowa including but not limited to buildings, facilities, equipment, supplies, funds, records, files, and materials.

**6.8(2) Prohibited uses.** The following are deemed to be the misuse of public property by an official, employee, or candidate for statewide office:

a. Using public property to engage in an outside employment or activity that leads to an unacceptable conflict of interest as prohibited in Iowa Code section 68B.2A(1)“a.”

b. Using public property to knowingly and purposefully send, receive, or view obscene material. “Obscene material” means any material depicting or describing the genitals, sex acts, masturbation, excretory functions, or sadomasochistic abuse which the average person, taking the material as a whole and applying contemporary community standards with respect to what is suitable material, would find appeals to the prurient interest and is patently offensive; and the material, taken as a whole, lacks serious literary, scientific, political, or artistic value.

This paragraph shall not apply to obscene materials that are sent or received as part of a law enforcement investigation or are authorized by law to be sent or received.

c. Using public property for personal financial gain. This prohibition does not apply to the receipt of lawful compensation for the performance of official state duties.

d. Using public property for a personal benefit to the detriment of the state.

e. Removing public property from a state building or facility for personal use.

f. Using public property to engage in political activities as prohibited in 351—Chapter 5.

This rule is intended to implement Iowa Code section 68B.32A(12).

[Filed 3/11/05, effective 5/4/05]

[Published 3/30/05]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/30/05.

**ARC 4076B****HUMAN SERVICES  
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 185, “Rehabilitative Treatment Services,” Iowa Administrative Code.

These amendments set limits on eligibility and duration for rehabilitative treatment services as follows:

- The amendments provide that children placed in emergency shelter care or foster group care are not eligible for family-centered supervision services and that children placed in psychiatric medical institutions for children are not eligible for any rehabilitative treatment services. The purpose of these restrictions is to avoid duplication of services, which is contrary to federal Medicaid regulations.

- The amendments limit the provision of family-centered service to children placed in emergency shelter care to 8 units of therapy and counseling and 12 units of skill development, all provided within 30 days for the purpose of family reunification. These limits will make the service focus consistent with the intended short-term nature of shelter placement.

These amendments do not provide for waivers in specified situations. Individuals who believe themselves disadvantaged by these rules may request a waiver under the Department’s general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on January 5, 2005, as **ARC 3924B**.

The Department scheduled nine public hearings on these amendments around the state. No one attended the hearings, and no one submitted written comments on the proposed amendments. These amendments are identical to those in the Notice of Intended Action.

The Council on Human Services adopted these amendments on March 9, 2005.

These amendments are intended to implement Iowa Code section 234.6.

These amendments shall become effective on June 1, 2005.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [185.2, 185.10(8), 185.83(4), 185.101, 185.112] is being omitted. These amendments are identical to those published under Notice as **ARC 3924B**, IAB 1/5/05.

[Filed 3/11/05, effective 6/1/05]

[Published 3/30/05]

[For replacement pages for IAC, see IAC Supplement 3/30/05.]

**ARC 4085B****NATURAL RESOURCE  
COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby adopts

## NATURAL RESOURCE COMMISSION[571](cont'd)

an amendment to Chapter 52, "Wildlife Refuges," Iowa Administrative Code.

This amendment adds the Gladys Black Eagle Refuge in Marion County to the list of wildlife refuges.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 8, 2004, as **ARC 3862B**. No comments were received. One person attended the public hearing. A clarification was made to the wording about who may enter the refuge.

This amendment is intended to implement Iowa Code sections 481A.5, 481A.6, 481A.8 and 481A.39.

This amendment shall become effective May 4, 2005.

The following amendment is adopted.

Amend subrule **52.1(2)** by adopting the following new paragraph "c":

c. It shall be unlawful to trespass in any manner on the following areas or portion of the areas during the time of the year they are posted as refuges. Department personnel and law enforcement officials may enter the area at any time in performance of their duties, and hunters under the supervision of department staff may enter to retrieve dead or wounded game animals when specifically authorized by the department.

<u>Area</u>	<u>County</u>
Gladys Black Eagle Refuge . . . . .	Marion

[Filed 3/11/05, effective 5/4/05]

[Published 3/30/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/30/05.

## ARC 4082B

### PUBLIC HEALTH DEPARTMENT[641]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 135I.4, the Iowa Department of Public Health hereby rescinds Chapter 15, "Swimming Pools and Spas," Iowa Administrative Code, and adopts a new Chapter 15 with the same title.

The rules describe the standards for the design, construction and operation of swimming pools and spas; qualifications for swimming pool and spa operators, lifeguards and inspectors; and procedures and fees for plan review, registration, and inspection of swimming pools and spas.

The rules were distributed among interested parties, including public health agencies, municipal swimming pool operators, motel/hotel owner organizations, pool builders, engineers, and architects, in October 2003. A revised draft was distributed November 1, 2004, for additional comment.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 2, 2005, as **ARC 3970B**. A public hearing was held on February 22, 2005. No written comments were received. Janet Ellerbrock, representing the Iowa Parks and Recreation Association, commented on the lifeguard requirements (the ratio of guards to pool users). A higher ratio of lifeguards had been proposed in the draft rules, but based on comments from Iowa Parks and Recreation Association and the American Red Cross Des Moines Chapter, the adopted rule is the same as the existing rule.

Changes made from the Notice of Intended Action at the suggestion of legal counsel are summarized below:

New definitions for "facility" and "inspection agency" were added in subrule 15.3(1), and text throughout the rules was modified to reflect the new definitions. The new definitions read as follows:

"'Facility' means a building, fenced enclosure, or lot where there is at least one swimming pool or spa subject to regulation under Iowa Code chapter 135I and these rules."

"'Inspection agency' means the department, or a city, county or district board of health that has executed with the department pursuant to the authority of Iowa Code chapters 28E and 135I an agreement to inspect swimming pool/spa facilities and enforce these rules. The authority of a city, county or district board of health is limited to the geographic area defined in the agreement executed with the department. Within the defined geographic area, the city, county or district board of health is the 'local inspection agency.'"

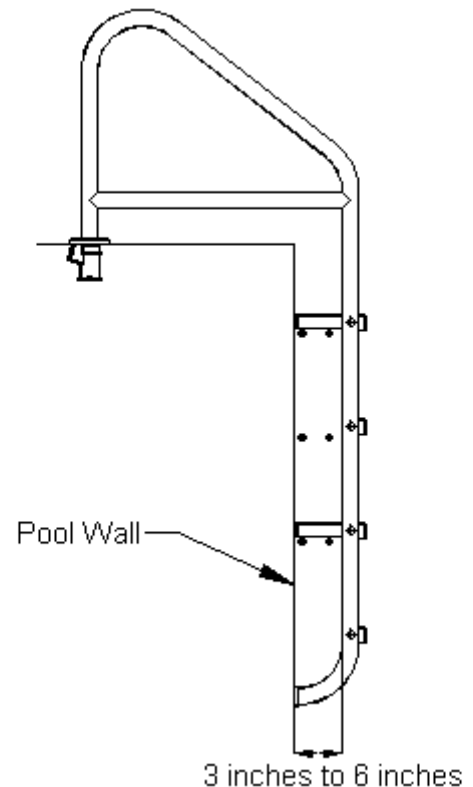
In subrule 15.3(2), the definition of "NSPI" was not adopted and a new definition of "APSP" was adopted in lieu thereof. The new definition reads as follows:

"'APSP' means the Association of Pool & Spa Professionals (formerly National Spa and Pool Institute (NSPI)), 2111 Eisenhower Avenue, Alexandria, Virginia 22314."

Paragraph 15.4(2)"b" was amended to allow inspectors to close a swimming pool if the pH is excessively out of range. Paragraph "b" now reads as follows:

"b. pH level. The pH of swimming pool water shall be 7.2 to 7.8. An inspection agency may require that a swimming pool be closed if the pH is less than 6.8 or greater than 8.2."

In subrule 15.4(4) and subparagraph 15.5(13)"c"(4), the following figure was added to explain the requirements for ladders. Subsequent figures in the chapter were renumbered.



Subparagraph 15.4(4)"d"(1) was amended to specifically include "manufactured home communities" in the list of entities exempt from lifeguard requirements. The subparagraph reads as follows:

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

“(1) Except for wading pools and spray pads, lifeguards are required at municipal and school swimming pools of any size and other swimming pools having a water surface area of 1500 ft<sup>2</sup> or larger. Swimming pools operated by apartments, condominiums, country clubs, neighborhoods, manufactured home communities, or mobile home parks are exempt from lifeguard requirements.”

In subparagraph 15.4(4)“d”(3), the note was amended to modify a statement that previously suggested that the rule may be inadequate. The note now reads as follows:

“NOTE: This is the minimum lifeguard coverage acceptable under these rules. It is the responsibility of the management of each facility to evaluate the facility configuration, the features of the facility, including water slides, spray pads, play features, etc., the patrons, and the type of use, and to determine the facility-specific requirements for supervision by lifeguards.”

Paragraphs 15.4(6)“i” and 15.51(5)“j” were amended to require that an emergency plan be kept at a facility and that it be available to inspectors. The paragraphs now read as follows:

“i. Emergency plan. The facility management shall develop a written emergency plan. The plan shall include, but may not be limited to, actions to be taken in cases of drowning, serious illness or injury, chemical-handling accidents, weather emergencies, and other serious incidents. The emergency plan shall be reviewed with the facility staff at least once a year, and the dates of review or training shall be recorded in the pool records. The written emergency plan shall be kept at the facility and shall be available to a swimming pool inspector upon request.”

“j. Emergency plans. A written emergency plan shall be provided. The plan shall include, but may not be limited to, actions to be taken in cases of drowning, hyperthermia, serious illness or injury, chemical-handling accidents, weather emergencies, and other serious incidents. The emergency plan shall be reviewed with the facility staff at least once a year, and the dates of review or training shall be recorded. The written emergency plan shall be kept at the facility and shall be available to a swimming pool inspector upon request.”

Rule 641—15.6(135I) was amended to give the Department specific authority to inspect facilities and to insert correct language regarding 28E agreements. Paragraph 15.6(2)“d” was amended to reflect the authority specifically given in Iowa Code chapter 135I. Revocation or withholding of the registration for a swimming pool or spa was not authorized in the law. Rule 641—15.6(135I) now reads as follows:

**“641—15.6(135I) Enforcement.**

“15.6(1) The department may inspect swimming pools and spas regulated by these rules and enforce these rules. A city, county or district board of health may inspect swimming pools and spas regulated by these rules and enforce these rules in accordance with agreements executed with the department pursuant to the authority of Iowa Code chapters 28E and 135I.

“15.6(2) The inspection agency shall take the following steps when enforcement of these rules is necessary.

“a. Owner notification. As soon as possible after the violations are noted, the inspection agency shall provide written notification to the owner of the facility that:

“(1) Cites each section of the Iowa Code or Iowa Administrative Code violated.

“(2) Specifies the manner in which the owner or operator failed to comply.

“(3) Specifies the steps required for correcting the violation.

“(4) Requests a corrective action plan, including a time schedule for completion of the plan.

“(5) Sets a reasonable time limit, not to exceed 30 days from the receipt of the notice, within which the owner of the facility must respond.

“b. Corrective action plan review. The inspection agency shall review the corrective action plan and approve it or require that it be modified.

“c. Failure to comply. When the owner of a swimming pool or spa fails to comply with conditions of the written notice, the inspection agency may take enforcement action in accordance with Iowa Code chapters 137 and 135I, or in accordance with local ordinances.

“d. Adverse actions and the appeal process. If the department determines that the provisions of Iowa Code chapter 135I and these rules have been or are being violated, the department may order that a swimming pool or spa be closed until corrective action has been taken. If the swimming pool or spa is operated in violation of the order of the department, the department may request that the county attorney or the attorney general make an application in the name of the state to the district court of the county in which the violations have occurred for an order to enjoin the violations. This remedy is in addition to any other legal remedy available to the department.

“(1) A local inspection agency may request that the department issue an order to close a swimming pool or spa. The request shall be in writing and shall list the violations of Iowa Code chapter 135I and these rules that have occurred or are occurring when the request is made. The local inspection agency shall provide a full accounting of the actions taken by the local inspection agency to enforce Iowa Code chapter 135I and these rules.

“(2) An order to close a swimming pool or spa shall be delivered by restricted certified mail, return receipt requested, or by personal service. The notice shall inform the owner of the right to appeal the decision and the appeal procedures. The local inspection agency and the county attorney in the county where the swimming pool or spa is located shall be notified in writing of the order.

“(3) An appeal of an order shall be submitted by certified mail, return receipt requested, within 30 days of receipt of the department’s notice. The appeal shall be sent to Iowa Department of Public Health, Division of Health Statistics and Environmental Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075. If such a request is made within the 30-day time period, the order shall be deemed to be suspended. Prior to or at the hearing, the department may rescind the order upon satisfaction that the reason for the order has been or will be removed. After the hearing, or upon default of the applicant or alleged violator, the administrative law judge shall affirm, modify or set aside the order. If no appeal is submitted within 30 days, the order shall become the department’s final agency action.

“(4) Upon receipt of an appeal that meets contested case status, the appeal shall be transmitted to the department of inspections and appeals within 5 working days of receipt pursuant to the rules adopted by that department regarding the transmission of contested cases. The information upon which the revocation or withholding is based shall be provided to the department of inspections and appeals.

“(5) The hearing shall be conducted in accordance with 481—Chapter 10.



## PUBLIC HEALTH DEPARTMENT[641](cont'd)

“(6) When the administrative law judge make a proposed decision and order, it shall be served by restricted certified mail, return receipt requested, or delivered by personal service. The proposed decision and order then becomes the department’s final agency action without further proceedings 10 days after it is received by the aggrieved party unless an appeal to the director is taken as provided in subparagraph 15.6(2)“d”(7).

“(7) Any appeal to the director of the department for review of the proposed decision and order of the administrative law judge shall be filed in writing and mailed to the director by certified mail, return receipt requested, or delivered by personal service within 10 days after the receipt of the administrative law judge’s proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the administrative law judge. Any request for appeal shall state the reason for appeal.

“(8) Upon receipt of an appeal request, the administrative law judge shall prepare the record of the hearing for submission to the director. The record shall include the following:

- “1. All pleadings, motions and rules.
- “2. All evidence received or considered and all other submissions by recording or transcript.
- “3. A statement of all matters officially noticed.
- “4. All questions and offers of proof, objections, and rulings thereon.
- “5. All proposed findings and exceptions.
- “6. The proposed findings and order of the administrative law judge.

“(9) The decision and order of the director becomes the department’s final agency action upon receipt by the aggrieved party and shall be delivered by restricted certified mail, return receipt requested.

“(10) It is not necessary for the owner to file an application for a rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final agency action of the department that has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A.

“(11) Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent by certified mail, return receipt requested, or by personal service to the Iowa Department of Public Health, Division of Health Statistics and Environmental Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075.

“(12) The party who appeals a final agency action to the district court shall pay the cost of the preparation of a transcript of the contested case hearing for the district court.”

A new sentence was added in subrule 15.13(3) and the subrule now reads as follows:

“**15.13(3)** If the department approves the application, the 28E agreement shall be perpetual, subject to the conditions set forth by both parties. The agreement shall include the terms and conditions required by Iowa Code chapter 28E and any additional terms agreed to by the parties.”

Throughout the chapter, in several paragraphs concerning barriers and means of enclosure, the phrase “shall not be easily climbable by toddlers” was added for consistency.

The Iowa State Board of Health adopted these rules on March 9, 2005.

These rules will become effective on May 4, 2005.

These rules are intended to implement Iowa Code chapter 135I.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 15] is being omitted. With the exception of the changes noted above, these rules are identical to those published under Notice as **ARC 3970B**, IAB 2/2/05.

[Filed 3/11/05, effective 5/4/05]

[Published 3/30/05]

[For replacement pages for IAC, see IAC Supplement 3/30/05.]

**ARC 4079B****PUBLIC HEALTH  
DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 136C.3, the Department of Public Health hereby amends Chapter 38, “General Provisions for Radiation Machines and Radioactive Materials,” Chapter 39, “Registration of Radiation Machine Facilities, Licensure of Radioactive Materials and Transportation of Radioactive Materials,” Chapter 40, “Standards for Protection Against Radiation,” Chapter 41, “Safety Requirements for the Use of Radiation Machines and Certain Uses of Radioactive Materials,” Chapter 42, “Minimum Certification Standards for Diagnostic Radiographers, Nuclear Medicine Technologists, and Radiation Therapists,” Chapter 45, “Radiation Safety Requirements for Industrial Radiographic Operations,” and Chapter 46, “Minimum Requirements for Tanning Facilities,” Iowa Administrative Code.

The following itemizes the changes.

Items 1, 11, 31, 61, and 94 amend the rules to reflect current federal regulations.

Items 2, 32, and 95 amend definitions to meet Nuclear Regulatory Commission (NRC) compatibility requirements.

Item 3 rescinds subrule 38.3(2) and replaces it with updated language to meet NRC compatibility requirements.

Items 4, 10, 26, 39, and 68 correct or change wording for clarity.

Item 5 prohibits scanning for nonmedical purposes because of exposure factors.

Item 6 adds a fee for mammography accreditation in order to cover the cost of the review.

Item 7 adds a fee for a new category of permit, the radiologist assistant.

Item 8 amends the fee for transportation of radioactive material across the state in order to cover the cost of the escort and emergency training.

Item 9 allows an exemption from fees in exchange for certain services used by the Agency.

Items 12 and 13 clarify the requirements a facility must meet in order to be registered or licensed. This clarification particularly affects companies operating mobile vans.

Item 14 adds new language for license exemptions to meet NRC compatibility requirements.

Items 15, 16, 17, 18, 19, 21, 22, 24, 28, and 30 amend rules governing general licensed radioactive material to meet NRC compatibility requirements.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

Items 20 and 29 add new language governing general licensed radioactive material to meet NRC compatibility requirements.

Items 23, 25, 27, 53, 65, 92, and 119 rescind provisions that are duplicated in another rule or no longer apply.

Items 33, 37, 54, and 56 update language to meet NRC compatibility requirements.

Items 34, 35, 36, 47, 48, 49, 50, 51, 52, and 59 are amended to remove references to forms no longer available from the Agency. These forms are standard industrywide and easily available from other sources.

Items 38, 40, 41, 42, 43, 44, 55, 57, and 58 add or correct language governing radiation exposure to meet NRC compatibility requirements.

Items 45 and 46 add language regarding securing radioactive material.

Item 60 changes posting requirements for certain documents.

Item 62 adds language to allow the citing of violations for equipment that is not covered in other rules.

Item 63 removes wording to allow verbal orders when the doctor is not in the room.

Item 64 adds language to require X-ray processors to be in good working order.

Item 66 removes language that is no longer needed due to industry standards.

Item 67 adds language to limit which individuals may administer radioactive materials.

Item 69 adds a paragraph to update requirements for a radiation therapy physicist in order to meet NRC compatibility requirements.

Item 70 revises language for written directives in order to meet NRC compatibility requirements.

Items 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, and 84 amend mammography rules for clarity and federal compliance. However, as explained in paragraph "4" below, the amendment proposed in Item 82 was not adopted.

Item 85 adds language to allow a screening program for cardiac scoring.

Item 86 adds a definition for a new category of certification and removes language from a definition that is no longer applicable.

Item 87 clarifies and adds language to expand the Agency's authority to sanction certification holders.

Item 88 adds continuing education requirements for a new category of certification.

Item 89 clarifies requirements for individuals submitting continuing education courses for review.

Item 90 clarifies and adds language to accept additional testing organizations. These organizations are already included in Agency policy.

Item 91 removes testing organizations that are no longer recognized as providing approved certification examinations.

Item 93 adds requirements for a new certification, radiologist assistant.

Items 96, 97, 98, 99, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 117, 118, and 120 amend rules for industrial radiography to meet NRC compatibility requirements.

Items 100 and 102 add new language for training of industrial radiographers to meet NRC compatibility requirements.

Item 116 rescinds old language and adds new language to meet NRC compatibility requirements for leak testing.

Items 121 and 122 amend and add language to require the posting of negative health effects in tanning facilities.

Item 123 adds a requirement that facility operators instruct consumers about the need to wear protective eyewear. This requirement is in Agency policy.

Items 124 and 125 add language to allow the Agency to proceed with certain disciplinary actions.

Item 126 adds a new appendix in conjunction with Items 121 and 122.

Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on February 2, 2005, as **ARC 3964B**. A public hearing was held on February 22, 2005. No one attended the hearing. Three sets of written comments were received and reviewed, and changes were incorporated as appropriate. The changes made from the Notice of Intended Action are as follows:

1. In Item 5, the sentence, "Whole-body scanning devices shall not be used on humans for nonmedical purposes," was changed to read "Radiation from radiation-emitting machines or radioactive materials shall not be used on humans for nonmedical purposes." The change expands the rule to place restrictions on all radiation-emitting machines or radioactive materials.

2. In Item 43, in paragraph 40.37(1)"b," "0.15 (1.5 mSv)" was replaced with "0.15 rem (1.5 mSv)." This was an omission.

3. In Item 67, the phrase "Iowa licensed physician" was added to allow licensed physicians to administer radiopharmaceuticals under the supervision of an authorized user. The phrase "for a nuclear medicine technologist or a radiation therapist" was added to indicate that only these individuals are required to post a permit to practice. These changes are for clarification. The paragraph now reads as follows:

"(5) Require that only those individuals specifically training in accordance with 641—Chapter 42 as a nuclear medicine technologist or a radiation therapist, as applicable, or an Iowa licensed physician and designated by the authorized user, shall be permitted to administer radionuclides or radiation to patients or human research subjects. For a nuclear medicine technologist or a radiation therapist, the individual's permit to practice shall be posted in the immediate vicinity of the general work area and be visible to the public."

4. Item 82 was not adopted; it was submitted in error.

The State Board of Health adopted these amendments on March 9, 2005.

These amendments will become effective May 4, 2005.

These amendments are intended to implement Iowa Code chapters 136C and 136D.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 38 to 42, 45, 46] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 3964B**, IAB 2/2/05.

[Filed 3/11/05, effective 5/4/05]

[Published 3/30/05]

[For replacement pages for IAC, see IAC Supplement 3/30/05.]

**ARC 4080B****PUBLIC HEALTH  
DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 135.11(13) and 135.72, the Department of Public Health hereby amends Chapter 202, "Certificate of Need Program," Iowa Administrative Code.

This amendment allows a hospital which has deleted beds for the purpose of receiving designation as a Critical Access Hospital to reestablish the deleted beds at a later time without obtaining a certificate of need, provided the number of beds reestablished does not exceed the number of beds maintained prior to the deletion.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 2, 2005, as **ARC 3950B**. Written comments were received from the Iowa Hospital Association and 13 different hospitals. All of the comments were in support of the amendment. This amendment is identical to the amendment published under Notice of Intended Action.

The State Health Facilities Council reviewed the comments and approved the amendment on February 28, 2005. The State Board of Health adopted this amendment on March 9, 2005.

This amendment will become effective May 4, 2005.

This amendment is intended to implement Iowa Code sections 135.61 to 135.83.

The following amendment is adopted.

Amend subrule 202.1(9) as follows:

**202.1(9)** "Permanent change in bed capacity" of an institutional health facility means a change which is intended to be effective for one year or more and which redistributes the beds among the categories listed in the definition of "Bed capacity."

*a.* A conversion of a long-term care hospital or a rehabilitation hospital as defined by federal regulations to a general acute hospital or to a different type of specialty hospital is a permanent change in bed capacity and requires a Certificate of Need.

*b.* *A hospital which has deleted beds pursuant to Iowa Code section 135.63(2)"g" for the purpose of receiving designation as a critical access hospital may reestablish the deleted beds at a later time without obtaining a certificate of need, provided that the number of beds reestablished does not exceed the number of beds maintained prior to the deletion as reported on the bed reduction form.*

[Filed 3/11/05, effective 5/4/05]

[Published 3/30/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/30/05.

**ARC 4069B****SOIL CONSERVATION  
DIVISION[27]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 161A.4(1), the Division of Soil Conservation hereby amends Chapter 40, "Coal Mining," Iowa Administrative Code.

These amendments make corrective changes mandated by the Division's federal oversight agency, the U.S. Office of Surface Mining, Reclamation and Enforcement. Amendments herein are corrective actions that are in response to an earlier rule making adopting revised federal regulations. The 2002 Code of Federal Regulations (CFR) is adopted by reference throughout the chapter and continues to serve as the baseline for the Iowa program rules. Iowa's Revegetation Success Standards and Statistically Valid Sampling Techniques are also adopted by reference. Incorporating these changes is necessary in order for the Division to maintain primacy for its coal regulatory and abandoned mine land programs.

It is the Division's intent that the suspensions at various regulations as explained in editorial notations within the CFR are adopted and incorporated by reference in this action as well as in Chapter 40.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 2, 2005, as **ARC 3945B**.

A public hearing was held on February 22, 2005. No comments were received at the hearing.

Written comments were received by the U.S. Office of Surface Mining. No other written comments were received.

One change has been made subsequent to the publication of the Notice of Intended Action. Subrule 40.41(4) has been added to clarify services provided by the Small Operator Assistance Program. Subrule 40.41(4) reads as follows:

**"40.41(4)** Program services at 30 CFR 795.9(b)(3) through 795.9(b)(6) shall not apply until Iowa Code section 207.4(1)(d) has been amended to authorize these services."

No waiver provision is included in these amendments. However, the Department has a general rule which allows for waivers in appropriate cases. The waiver rule applies to these amendments.

These amendments are intended to implement Iowa Code chapter 207.

These amendments will become effective June 1, 2005.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 40] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 3945B**, IAB 2/2/05.

[Filed 3/10/05, effective 6/1/05]

[Published 3/30/05]

[For replacement pages for IAC, see IAC Supplement 3/30/05.]

**ARC 4068B****TRANSPORTATION  
DEPARTMENT[761]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.10, 307.12, 321.449 and 321.450, the Department of Transportation, on March 9, 2005, adopted amendments to Chapter 520, "Regulations Applicable to Carriers," Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the February 2, 2005, Iowa Administrative Bulletin as **ARC 3944B**.

Iowa Code section 321.449 requires the Department to adopt rules consistent with the Federal Motor Carrier Safety Regulations (FMCSR) promulgated under United States Code, Title 49, and found in 49 Code of Federal Regulations (CFR), Parts 385 and 390 to 399. Iowa Code section 321.450 requires the Department to adopt rules consistent with the Federal Hazardous Materials Regulations (HMR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 107, 171 to 173, 177, 178 and 180. To ensure the consistency required by statute, the Department annually adopts the specified parts of 49 CFR as adopted by the United States Department of Transportation.

Commercial vehicles transporting goods in interstate commerce are subject to the FMCSR on the effective dates specified in the Federal Register (FR). Commercial vehicles transporting hazardous materials in interstate commerce or transporting certain hazardous materials intrastate are subject to the Federal HMR on the effective dates specified in the FR. The adoption of the federal regulations by the Department will extend the enforcement of the regulations to commercial vehicles operated intrastate unless exempted by statute.

Proposed federal regulations are published in the FR to allow a period for public comment, and, after adoption, the final regulations are again published in the FR. Each year a revised edition of 49 CFR is published, incorporating all of the final regulations adopted during the year. Although revised editions of 49 CFR are usually dated October or November, the publication is not actually available in Iowa for several months after that date.

The amendments to the FMCSR and the Federal HMR that have become final and effective since the 2003 edition of the CFR are listed in the information below. The parts affected are followed by FR citations.

**Amendments to the FMCSR and Federal HMR**

**Parts 171, 172, 173, 177 and 178 (FR Vol. 68, No. 193, Page 57629, 10-06-03)**

This final rule corrects editorial errors, makes minor regulatory changes and improves the clarity of certain provisions in the Federal HMR.

**Parts 390 and 398 (FR Vol. 68, No. 207, Page 61246, 10-27-03)**

This rule contains an editorial correction on a date referenced in the regulations.

**Parts 171, 173, 177 and 178 (FR Vol. 68, No. 210, Page 61906, 10-30-03)**

This final rule clarifies the applicability of the Federal HMR to specific functions and activities, including hazardous materials loading and unloading operations and storage of hazardous materials during transportation.

**Part 171 (FR Vol. 68, No. 232, Page 67746, 12-03-03)**

The Research and Special Programs Administration (RSPA) is revising the incident reporting requirements of the Federal HMR and the hazardous materials incident report form, U.S. Department of Transportation (U.S. DOT) Form F 5800.1. These revisions will ensure an increase in the usefulness of data collected for risk analysis and management by government and industry.

**Parts 171, 172, 173, 177, 178 and 180 (FR Vol. 68, No. 250, Page 75734, 12-31-03)**

This final rule amends the Federal HMR to standardize the format used to cross-reference consensus standards published by nationally and internationally recognized standard-setting organizations and industry that are incorporated by reference into the Federal HMR. In addition, this rule adds missing cross references and removes unnecessary cross references in the Federal HMR. The amendments contained in this rule are minor editorial changes and impose no new requirements.

**Parts 171, 172, 173, 177 and 178 (FR Vol. 69, No. 16, Page 3632, 01-26-04)**

This final rule amends the requirements in the Federal HMR pertaining to the transportation of radioactive materials based on changes contained in the International Atomic Energy Agency (IAEA) publication. The purpose of this rule-making initiative is to harmonize requirements of the Federal HMR with international standards for radioactive materials as well as to promulgate other U.S. DOT-initiated requirements.

**Parts 107, 171 and 177 (FR Vol. 69, No. 27, Page 6195, 02-10-04)**

This final rule revises the procedures for applying for an exemption from the Federal HMR, adopted in an interim final rule published May 5, 2003, to require certain applicants to certify compliance with provisions of the Safe Explosives Act. In addition, this final rule adopts, without change, provisions in the interim final rule that require motor carriers and vessel operators to comply with applicable licensing requirements for drivers and crewmen, respectively.

**Part 391 (FR Vol. 69, No. 61, Page 16722, 03-30-04)**

This final rule establishes standards for the operators of longer combination vehicles (LCVs) and requirements for the instructors who train these operators. This action is in response to the Intermodal Surface Transportation Efficiency Act of 1991, which directed that training for the operators of LCVs include certification of an operator's proficiency by an instructor who has met the requirements established by the Secretary of Transportation. The purpose of this final rule is to enhance the safety of commercial motor vehicle (CMV) operations on our nation's highways.

**Parts 390 and 391 (FR Vol. 69, No. 61, Page 16684, 03-30-04)**

The Federal Motor Carrier Safety Administration (FMCSA) amends the FMCSR to specify: The minimum driver safety performance history data that new or prospective employers are required to seek for applicants under consideration for employment as CMV drivers; where, and from whom, that information must be sought; and that previous employers must provide the minimum driver safety performance history information. This action will enable prospective motor carrier employers to make more sound hiring decisions of drivers to improve CMV safety on our nation's highways.

**Part 172 (FR Vol. 69, No. 75, Page 20831, 04-19-04)**

The RSPA is extending the compliance date of the recently adopted air eligibility marking requirement from October 1, 2004, to October 1, 2006.

**Part 391 (FR Vol. 69, No. 97, Page 28846, 05-19-04)**

## TRANSPORTATION DEPARTMENT[761](cont'd)

The FMCSA published in the FR on March 30, 2004, a final rule concerning requirements for operators of longer combination vehicles and the instructors who train them. The requirements codified in 49 CFR Subpart 391.53 should have been designated 49 CFR Subpart 391.55. In addition, the authority citation for the rule failed to include the authorities listed in another FMCSA rule amending 49 CFR Part 391 that was published the same day. This document corrects these errors.

Part 171 (FR Vol. 69, No. 102, Page 30114, 05-26-04)

On December 3, 2003, the RSPA published a final rule to update and clarify requirements in the Federal HMR applicable to incident reporting requirements and the hazardous materials incident report U.S. DOT form. This final rule amends certain requirements and makes minor editorial corrections. This final rule was effective January 1, 2005.

Parts 171, 173, 177 and 178 (FR Vol. 69, No. 104, Page 30588, 05-28-04)

On October 30, 2003, the RSPA published a final rule to clarify the applicability of the Federal HMR to loading, unloading, and storage operations. The RSPA is delaying the effective date of the final rule from October 1, 2004, to January 1, 2005.

Part 393 (FR Vol. 69, No. 107, Page 31302, 06-03-04)

This rule revises the requirements concerning fuel tank fill rates for gasoline- and methanol-fueled light-duty vehicles contained in Subpart E of the FMCSR. This rule removes a conflict between the fuel tank fill rate requirements of the FMCSR and those of the Environmental Protection Agency for gasoline- and methanol-fueled vehicles up to 14,000 pounds gross vehicle weight rating, and makes permanent the terms of the exemptions previously granted to motor carriers operating certain gasoline-fueled CMVs manufactured by Ford Motor Company and by General Motors. This rule also incorporates into the FMCSR previously issued regulatory guidance concerning the applicability of the agency's fuel tank rules to vehicles subject to the National Highway Traffic Safety Administration fuel system integrity standard at the time of manufacture.

Parts 171, 172, 173 and 178 (FR Vol. 69, No. 119, Page 34604, 06-22-04)

This final rule amends certain requirements to a final rule issued on July 31, 2003, that made revisions to the Federal HMR to facilitate the transportation of hazardous materials in international commerce. This final rule also corrects errors in the July 31, 2003, final rule.

Parts 385 and 390 (FR Vol. 69, No. 125, Page 39350, 06-30-04)

The FMCSA is establishing a national safety permit program for motor carriers that transport certain hazardous materials in interstate or intrastate commerce. This rule making will require intrastate transporters of certain types and quantities of hazardous materials to obtain a U.S. DOT number as well as the safety permit. This final rule implements provisions of federal hazardous materials transportation law.

Part 172 (FR Vol. 69, No. 133, Page 41967, 07-13-04)

This final rule corrects errors in the 49 CFR 172.101 Hazardous Materials Table (HMT) made during the recent publication of 49 CFR Parts 100 to 185. In the most recent publication of 49 CFR Parts 100 to 185, a number of entries in the HMT were inadvertently removed.

Part 171 (FR Vol. 69, No. 169, Page 53352, 09-01-04)

This interim final rule extends the compliance date of the notification and record retention requirements for aircraft operators transporting hazardous materials from October 1, 2004, to April 1, 2005.

Parts 107, 171, 172, 173, 178 and 180 (FR Vol. 69, No. 172, Page 54042, 09-07-04)

This final rule corrects editorial errors, makes minor regulatory changes and, in response to requests for clarification, improves the clarity of certain provisions in the Federal HMR.

Parts 171, 172 and 173 (FR Vol. 69, No. 176, Page 55113, 09-13-04)

This final rule corrects errors in the docket published on January 26, 2004, that amended requirements in the Federal HMR pertaining to the transportation of radioactive materials based on changes in the IAEA publication entitled "IAEA Safety Standards Series: Regulations for the Safe Transport of Radioactive Material," 1996 Edition, No. TS-R-1.

The other amendment to this chapter adds a new subrule concerning compliance reviews.

Various portions of the federal regulations and Iowa statutes allow some exceptions when the exceptions will not adversely impact the safe transportation of commodities on the nation's highways. Granting additional exceptions for drivers and the motor carrier industry in Iowa would adversely impact the safety of the traveling public in Iowa.

These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code chapter 321.

These amendments will become effective May 4, 2005.

Rule-making actions:

ITEM 1. Amend paragraph **520.1(1)“a”** as follows:

a. Motor carrier safety regulations. The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385 and 390-399 (October 1, 2003 2004).

ITEM 2. Amend paragraph **520.1(1)“b”** as follows:

b. Hazardous materials regulations. The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, 2003 2004).

ITEM 3. Amend rule 761—520.5(321) as follows:

**761—520.5(321) New motor carrier safety audits *Safety fitness.***

**520.5(1) New motor carrier safety audits.** Peace officers in the office of motor vehicle enforcement of the Iowa department of transportation shall perform safety audits of new motor carriers and shall have the authority to enter a motor carrier's place of business for the purpose of performing these audits. These audits shall be performed in compliance with 49 CFR Part 385 and shall be completed within 18 months from the day the motor carrier commences business.

**520.5(2) Motor carrier compliance reviews.** Peace officers in the office of motor vehicle enforcement of the Iowa department of transportation shall perform compliance reviews of motor carriers and shall have the authority to enter a motor carrier's place of business for the purpose of performing these compliance reviews. These compliance reviews shall be performed in compliance with 49 CFR Part 385.

This rule is intended to implement Iowa Code sections 321.449 and 321.450.

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